December 30, 2016

Administrator Gina McCarthy U.S. Environmental Protection Agency 1200 Pennsylvania Avenue, N.W. Washington, D.C. 20460

Secretary Anthony Foxx U.S. Department of Transportation 1200 New Jersey Avenue, S.E. Washington, D.C. 20590

<u>Re</u>. Proposed Determination Regarding 2022-2025 Model Year Light-Duty Vehicle Greenhouse Gas Emission Standards; EPA-HQ-OAR-2015-0827

Dear Administrator McCarthy,

As long-term investors with over \$720 billion in assets under management, we are writing to voice our strong support for EPA's Proposed Determination that the current standards for model years 2022-2025 (MY 2022-2025) Greenhouse Gas (GHG) Emissions standards remain appropriate.

The standards represent a critical opportunity to strengthen the U.S. economy and create jobs – both by benefiting the auto industry and by ensuring fuel cost savings, which in turn will increase spending on non-energy goods and services. In addition, given the critical role of strong standards in driving innovation, the standards will also help ensure the global competitiveness of the industry.

An economic analysis¹ commissioned by Ceres and produced by independent automotive industry analysts found that the current National Program would reduce risk for the Detroit Three and benefit suppliers. First, the study shows that the Detroit Three will remain profitable under the current standards under all fuel price scenarios considered - even under a very low \$1.80 per gallon fuel price. Second, the current standards provide insurance for the Detroit Three automakers and their suppliers against future market losses in the event of a fuel price spike. Third, regulatory certainty is valuable to automakers, and especially the Tier One suppliers, who are making the majority of fuel-saving technology investments in research, development and production capacity; the standards will allow them to realize returns on their investments and avoid stranded costs. Fourth, the analysis found that the standards provide significant benefits to suppliers, which make up a significantly larger portion of the economy than the automakers, and employ over half a million Americans - over two and a half times more people than the automakers. Specifically, the study found that Tier One auto suppliers stand to gain

ED_002110_00038813-00001

 $^{^1\ \ \}text{http://www.ceres.org/files/analyst-brief-economic-effects-on-us-automakers-and-suppliers/at_download/file}$

about \$90 billion in increased orders for fuel-saving technology under the current standards (in the 2014-2025 time frame). Fifth, weakening the standards could make the U.S. an outlier among global regulatory regimes, and put the Detroit Three at a disadvantage because it would undermine their ability to achieve economies of scale through increased use of global platforms.

Finally, strong standards will serve to mitigate the economic risks associated with our continuing dependence on oil as well as climate change. In light of the volatility of fuel prices, strong standards are needed in order to reduce transportation costs for businesses and consumers. In addition, climate change presents significant long-term risks to the global economy, and to investors across all asset classes. Strong standards will serve to mitigate that risk by providing significant GHG reductions; the MY 2022-2025 standards would save approximately 537 million metric tons of GHG emissions, and reduce oil use by 1.2 billion barrels.²

In sum, the standards will strengthen the U.S. economy, provide the regulatory certainty needed to spur innovation, reduce both our dependence on oil and climate risk, save businesses and consumers money, and create jobs. Accordingly, we urge that EPA issue a Final Determination preserving the MY 2022-2025 standards.

Sincerely,

California State Teachers' Retirement System Office of the New York State Comptroller New York City Office of the Comptroller Office of the Connecticut State Treasurer **ACTIAM** Trinity Health Presbyterian Church U.S.A. Dignity Health Trilogy Global Advisors LP Dana Investment Advisors Miller/Howard Investments, Inc. **NEI Investments** Pax World Management LLC Walden Asset Management Everence and the Praxis Mutual Funds Trillium Asset Management Domini Impact Investments LLC Reynders, McVeigh Capital Management, LLC Seventh Generation Interfaith Inc Sustainability & Impact Investing Group, Rockefeller Asset Management First Affirmative Financial Network

² Proposed Determination at 11 https://nepis.epa.gov/Exe/ZyPDF.cgi/P100OXEO.PDF?Dockey=P100OXEO.PDF

Zevin Asset Management The George Gund Foundation Unitarian Universalist Association Sonen Capital LLC Green Century Capital Management Friends Fiduciary Corporation MissionPoint Partners Arjuna Capital Mennonite Education Agency Tri-State Coalition for Responsible Investment Sierra Club Foundation Sisters of St. Dominic of Caldwell NJ Christopher Reynolds Foundation BVM Shareholder Education & Advocacy Group ICCR (Interfaith Center on Corporate Responsibility) Sisters of Saint Joseph of Chestnut Hill, Philadelphia, PA Sisters of St. Francis of Philadelphia

From: Bailey, Stefan [Stefan.Bailey@prime-policy.com]

Sent: 7/17/2017 9:28:10 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Fw: EDI Meeting

Attachments: S0403a.pdf; 5 EDI ER Addendum_04.12.2017.pdf

Mandy - I hope you are well. I'm following up on the Iris Glen RINs issue we discussed a couple of weeks ago...and flagging for you the exchange of emails in which EDI answers questions that were raised by EPA staff in the meeting. Just want to keep you in the loop on developments.

Please let me know if there is anything further you or your folks need. Thanks again for taking an interest in this issue. All the best.

Stefan

From: McCullough, David [mailto:davidmccullough@eversheds-sutherland.com]

Sent: Friday, July 14, 2017 4:24 PM

To: Gustafson, Kurt <Gustafson.Kurt@epa.gov>; Le, Madison <Le.Madison@epa.gov>; Bunker, Byron <bur>
<bur>

<bur>

Cc: Lafferty, Susan <susanlafferty@eversheds-sutherland.com>; Wong, Shelley <shelleywong@eversheds-sutherland.com>; Dennis Bollinger <Dennis.Bollinger@energydi.com>; Steve Cowman <Steve.Cowman@energydi.com>; Chris Coccia <Chris.Coccia@energydi.com>; jude.mariea@centerpointenergy.com

Subject: RE: EDI Meeting

Kurt,

As a follow-up to my email from Wednesday, I believe you are referencing in your email below the certificate of analysis ("COA") dated May 2015 that was contained in the originally submitted engineering report filed with the EPA in November 2015—not the COA dated April 2017 contained in the addendum (see page 11 of the first PDF) that was filed at EPA's request in April 2017. The April 2017 COA was filed to reflect the changes made by EDI at the landfill, the new EDI ownership and to meet the guidance issued by the EPA. For the reasons below, the April 2017 COA is reflective of the current and future quality and energy content of the biogas injected into the ESG pipeline rather than the May 2015 COA.

Since purchasing the landfill gas operation at Iris Glen, EDI has implemented a number of capital improvements and updated operating practices to the gas processing at the site. EDI has upgraded the original hydrogen sulfide removal system – including upgrading the media which cleans the gas and implementing new operational SOP to insure ongoing quality. Additionally, EDI has worked with the landfill counterparty to improve the gas collection operations from the landfill, which has improved the quality and energy content of the inlet gas from the landfill into the gas plant. As a result, the quality and energy content of the output gas being injected into the ESG pipeline improved as reflected in the April 2017 COA, and the fuel quality will remain at that level due to the improvements made by EDI. Using the data in the April 2017 COA, the gas injected into the ESG pipeline meets the specifications as represented in our email on Tuesday.

Note that the processed gas injected into the ESG pipeline meets all of the quality specifications for transportation fuel in the Cummings-Westport calculator. Of course, RINs will only be generated on the energy content of the biogas in accordance with the equivalence values set forth in the RFS regulations. As you know, methane concentrations are necessarily increased when the gas is compressed into "compressed natural gas" for use as transportation fuel. While we continue to believe and maintain that the regulations require that renewable CNG used as a transportation fuel be of pipeline quality, meet transportation fuel specifications and be biogas-derived—not that the raw biogas feedstock meet

transportation fuel specifications—EDI has no concerns regarding the current and future ability of the biogas injected into the ESG pipeline to meet both quality and energy content transportation fuel requirements.

Lastly, to our knowledge EPA does not have a specific specification for CNG as a transportation fuel in the same manner that it has for gasoline, diesel, biodiesel, ethanol and renewable diesel. Therefore, should EPA disagree with our assessment, we seek your specific guidance as to the fuel quality requirements that EPA will impose on all companies injecting biogas into a pipeline for use as a transportation fuel and RIN generation.

Please let us know if we can answer any questions regarding the above.

Thank you, Dave

Personal Email / Ex. 6

From: McCullough, David

Sent: Wednesday, July 12, 2017 5:06 PM

To: 'Gustafson, Kurt'; Le, Madison; Bunker, Byron; Dubois, Roland; Master, Barbora; Kodish, Jeff **Cc:** Lafferty, Susan; Wong, Shelley; Dennis Bollinger; steve.cowman@energydi.com; Chris Coccia;

jude.mariea@centerpointenergy.com

Subject: RE: EDI Meeting

Kurt,

We will respond more fully, but EDI was looking at a more recent COA that was performed when they ran the calculations for response to question 4 below. Thank you for your prompt attention to our response last night, we will be in touch with more detail soon.

Best regards,

Dave

Personal Email / Ex. 6

From: Gustafson, Kurt [mailto:Gustafson.Kurt@epa.gov]

Sent: Wednesday, July 12, 2017 8:46 AM

To: McCullough, David; Le, Madison; Bunker, Byron; Dubois, Roland; Master, Barbora; Kodish, Jeff **Cc:** Lafferty, Susan; Wong, Shelley; Dennis Bollinger; steve.cowman@energydi.com; Chris Coccia;

jude.mariea@centerpointenergy.com

Subject: RE: EDI Meeting

All-

Thanks for the responses. I was looking at the fuel quality response (#4 below) in particular, and am trying to determine how you arrived at the conclusion that the biogas would be able to be used as transportation fuel.

From the Cummins site provided in your response, there is a fuel quality calculator:

<u>http://www.cumminswestport.com/fuel-quality-calculator</u>. When I enter the data from the certificate of analysis provided in your Engineering Review submission, it would appear that the biogas does not meet the Cummins fuel quality specifications.

Thanks-

Kurt

From: McCullough, David [mailto:davidmccullough@eversheds-sutherland.com]

Sent: Tuesday, July 11, 2017 9:46 PM

To: Le, Madison < Le. Madison@epa.gov >; Bunker, Byron < bunker.byron@epa.gov >; Dubois, Roland

<<u>Dubois.Roland@epa.gov</u>>; Gustafson, Kurt <<u>Gustafson.Kurt@epa.gov</u>>; Master, Barbora <<u>Master.Barbora@epa.gov</u>>; Kodish, Jeff <Kodish.Jeff@epa.gov>

Cc: Lafferty, Susan < sutherland.com; Wong, Shelley < sutherland.com; steve.cowman@energydi.com; Chris Coccia Chris.Coccia@energydi.com; jude.mariea@centerpointenergy.com

Subject: RE: EDI Meeting

Madison,

Thank you and the rest of the EPA team again for meeting with us last Thursday. Below in red please find Energy Developments, Inc.'s ("EDI's") responses to each of your questions. Please do not hesitate to let us know if you have any questions regarding our responses or if we can provide any additional information.

Thank you,
Dave
Personal Email / Ex. 6

From: Le, Madison [mailto:Le.Madison@epa.gov]

Sent: Thursday, July 06, 2017 7:01 PM

To: Lafferty, Susan <<u>susanlafferty@eversheds-sutherland.com</u>>; McCullough, David <<u>davidmccullough@eversheds-sutherland.com</u>>; Wong, Shelley <<u>shelleywong@eversheds-sutherland.com</u>>; Dennis Bollinger

<<u>Dennis.Bollinger@energydi.com</u>>; Steve Cowman <<u>Steve.Cowman@energydi.com</u>>; Chris Coccia

<<u>Chris.Coccia@energydi.com</u>>; <u>jude.mariea@centerpointenergy.com</u>

Cc: Bunker, Byron < <u>bunker.byron@epa.gov</u>>; Dubois, Roland < <u>Dubois.Roland@epa.gov</u>>; Gustafson, Kurt < <u>Gustafson.Kurt@epa.gov</u>>; Master, Barbora < <u>Master.Barbora@epa.gov</u>>; Kodish, Jeff < <u>Kodish.Jeff@epa.gov</u>>

Subject: RE: EDI Meeting

Thank you everyone for traveling to DC for today's meeting with EPA. We thought the meeting was very informative and helpful to our on-going evaluation. Below are some follow questions from Roland, Byron and the team based on the discussion today. As soon as you can, please provide responses to these questions. Thank you.

- 1) Do any parties other than EDI inject gas into the ESG pipeline between the EDI processing plant and the point just prior to the location where biogas from the EDI facility is co-mingled with natural gas from the Atmos pipeline?
 - **EDI's Response:** At the present time no other parties are injecting gas into the ESG pipeline, but the pipeline is registered with the State of Tennessee as a gas distribution system and is able to receive gas from other sources. As discussed at the meeting and below, the ESG pipeline would welcome other customers to inject gas into the pipeline for sale across the entire interconnected commercial distribution system of interstate and intrastate pipelines (i.e., beyond the Mountain Home Energy Center).
- 2) You mentioned in support of the concept that the ESG pipeline is a "commercial pipeline the fact that it is a registered pipeline in Tennessee, and subject to a tariff. Could you please elaborate on these points, with citations to the Tennessee regulations at issue? In particular, please explain whether the ESG pipeline would be subject to these requirements if there was no connection of the ESG pipeline to the Atmos pipeline.

EDI's Response: The ESG pipeline is a commercial gas distribution system regulated by the Tennessee Regulatory Authority ("TRA") under Tenn. Code Ann. 65-4-201 and the Tennessee Public Utility Commission ("TPUC") and is operated as a public utility for public use under Tennessee state law. These registrations allow the pipeline to sell and receive gas to and from multiple customers and charge transportation tariffs approved by the TRA. In the case of the ESG pipeline, the rate is \$0.75 per mmBTU with a monthly customer charge of \$310, which was found to be reasonable by the TRA. While currently the ESG pipeline only has one receiving customer and one injecting customer, Tennessee provides that interested customers may access the pipeline and ESG would welcome them on its pipeline. For this and other reasons, the pipeline is a commercial distribution system.

ESG is one of eighteen companies registered with and listed by the TRA Gas Pipeline Safety Division as an intrastate transmission company (see attached, which was downloaded from https://www.tn.gov/tpuc/section/gas-pipeline-safety-divison). Additionally, ESG is one of only nine companies registered with and listed as a natural gas utility with the TPUC (see second attachment).

Note that the Tennessee laws to which the ESG pipeline must conform relate to individual pipelines, not pipeline interconnections, so the connection of the ESG pipeline into the Atmos distribution pipeline is not covered under these laws. Nonetheless, the connectivity between the ESG and Atmos pipelines is what makes the ESG pipeline part of the larger commercial distribution system as without this connection the gas from Iris Glen could not be sold to a third party other than Mountain Home. On the attachments you will note the Atmos pipeline is registered in a similar fashion to the ESG pipeline.

- 3) Provide the pipeline specifications (and the connection agreement, if available) for both the Atmos pipeline and the East Tennessee pipeline. (if this has already been provided, please direct us to the submitted document, or resend to help us with the review).
 - **EDI's Response:** The publicly available East Tennessee Natural Gas ("ETNG") pipeline specification is attached. The Atmos distribution interconnection agreement between ETNG and Atmos are not publicly available. An inquiry was made directly to Atmos regarding the gas specification. We were told that while there are several Gas Chromatographs located on the ETNG pipeline evaluating the constituents of the gas being received into the ETNG system, neither ETNG nor Atmos have installed a separate gas chromatograph to monitor the constituents of gas being injected onto the Atmos distribution system in Johnson City.
- 4) Provide supporting information if the gas from the ESG pipeline can be compressed directly (without further processing) to be used in a CNG vehicle.
 - **EDI's Response:** Once compressed, the biogas produced at Iris Glen can be used directly as transportation fuel in a RNG/CNG vehicle. For example, Cummins-Westport, a leading manufacturer of engines for CNG vehicles, makes several engines designed to run on RNG/LNG/CNG that can be run on gas within the specifications of the biogas produced at Iris Glen (see all of the ISX, ISL and ISB models listed here:
 - http://www.cumminswestport.com/models). These engines are approved for highway use in the United States and meet U.S. Environmental Protection Agency (EPA) and California Air Resource Board (ARB) emission standards and EPA greenhouse gas (GHG) and U.S. Department of Transportation (DOT) fuel consumption regulations. This includes the Cummins-Westport ISX engine listed here:
 - http://www.cumminswestport.com/models/isx12-g, which is used in UPS's CNG fleet vehicles (http://www.fleetsandfuels.com/fuels/cng/2013/07/ups-boosts-lng-plans-adds-cng/). As you will recall, UPS is purchasing the biogas for use in its CNG fleet.
- 5) Provide supporting information of the physical configuration of any mechanism (such as a check valve, or flow meter with a shut off value) that could stop flow from ESG pipeline to enter the Atmos pipeline, and flow from the Atmos pipeline into the East Tennessee pipeline.
 - **EDI's Response:** An as-built drawing of the ESG pipeline is attached. Due to post-9/11 security concerns, detailed pipeline drawings from third parties (East Tennessee/Atmos) are not publicly available. We can confirm, however, that custody transfer stations between pipelines, which transfer the custody of the natural gas in one pipe to the custody of a second pipeline, routinely include mechanical devices specifically installed

to prevent the flow of gas from the receiving pipe back into the delivering pipeline. In the industry, these devices are referred to as "back flow" preventers or emergency shutdown valves. These devices are automatically actuated based on pressure and or directional flow.

As a follow-up to our discussion at the meeting, a "very small person" (molecule of gas) could walk through pipeline connections from Iris Glen to Memphis, Tennessee where the gas is processed and sold as renewable transportation fuel if all mechanical devices (i.e. valves, backflow preventers, etc.) are opened. This type of connection is consistent with other registrations accepted by EPA.

6) Any other outstanding questions posed at the meeting that may not be captured above.

EDI's Response: To clarify one issue discussed at the meeting, EDI would not be able to sell its gas to Atmos if the ESG pipeline was not connected to the Atmos Pipeline. The ability to sell and transport the gas across the pipelines is one of several reasons why the ESG pipeline is part of the larger commercial distribution system of federal and state pipelines.

Madison H. Le Center Director, Fuels Compliance Policy Center (FCPC) Office of Transportation & Air Quality U.S. Environmental Protection Agency 1200 Pennsylvania Ave, N.W. Washington, D.C. 20460

Personal Email / Ex. 6

The information, and any attachments contained in this email may contain confidential and/or privileged information and is intended solely for the use of the intended named recipient(s). Any disclosure or dissemination in whatever form, by another other than the intended recipient is strictly prohibited, if you have received this transmission in error, please contact the sender and destroy this message and any attachments. Thank you.

From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 7/31/2017 2:32:17 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dominguez, Alexander

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: Ozone Presentation for tomorrow **Attachments**: 20170801 EPA Ozone Presentation.pptx

Mandy and Alex,

We are looking forward to speaking with you guys tomorrow. Here is the presentation we will be working from during our call. If you have any questions beforehand, please let us know.

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004

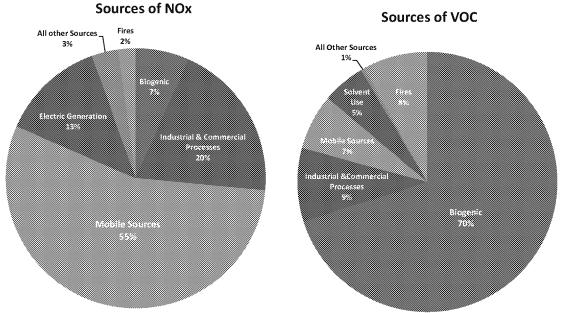
Personal Email / Ex. 6

2015 Ozone NAAQS

- 70 ppb standard is not realistic and is at background in large areas of the country
- Existing 2015 record supports higher standard
- EPA should expeditiously review and repeal the 2015 ozone NAAQS based upon the record created to support the 2015 final rule.
 - EPA can determine 70 ppb standard is void ad initio
 - EPA could replace with higher standard 72 75 ppb
 - Quick review is necessary, must be done before:
 - 2008 75 ppb standard moderate nonattainment deadlines
 - 2015 70 ppb standard designations
 - If EPA decides not to repeal the 2015 standard then expeditiously revoke the 2008 standard

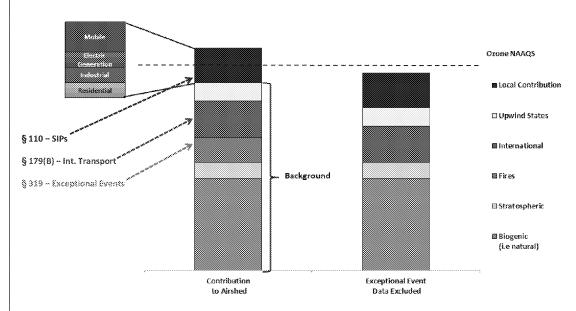
Ozone Precursor Emission Sources

National average, but unique to every location and changes daily!



Contributors to Ozone*

This is unique to every location and changes daily!



^{*}Representative airshed of high ozone day, for demonstration purposes only.

Adapted from Jaffe (March 2017).

NAAQS Implementation Improvements

· International Transport -

- Rule must reflect statutory intent "but for emissions emanating from outside of the United States"
- Areas are already extremely well-controlled but have influence from Mexico, Asia, Canada, etc. (e.g. HGB)
 - · International influence should be accounted for and subtracted
 - Need to research and define regional contributions

Exceptional Events

- Natural event (e.g. wildfires or haboob) or an event caused by human activity that is unlikely to recur (e.g. industrial accident).
 - · Process has been burdensome and costly which prevents states from submitting petitions
 - Streamlined approach necessary
 - Need avenue for regulated community to assist in flagging EE days
 - Only require very limited data for flagging
 - Full demonstrations should not be required until classification is affected (e.g. 4th highest day-3 year average)
 - E.g. 2014 = 75 ppb, 2015 = 77 ppb, 2016 = 76 would not need to do full demonstration of a 2014 or 2015 event until triggered nonattainment in 2016

SIP Control Strategies

- Many existing nonattainment areas already extremely well controlled (e.g. HGB)
- Impact of additional federal programs need to be considered in control plans (e.g. Tier III fuels, MACT, NSPS)
- Ozone formation science is progressing we need to target the right sources
 - · Traditional control strategies are costly and in many cases will not reduce high ozone days
 - · Some high ozone days caused by acute issues (e.g. emissions events & malfunctions)
 - Need to understand cause of high ozone days in each area before implementing a new control strategy

Biogenics	903179.7027	0.066676104
Industrial & Commercial Processes	2682277.773	0.198015778
Mobile Sources	7463540.367	0.550986468
Electric Generation	1759629.814	0.129902455
All other Sources	446622.1278	0.032971316
Fires	290528.2082	0.021447879

2	Percentage	
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Biogenic	0.701259629
Industrial &Commercial Processes	0.091045555
Mobile Sources	0.069290326
Solvent Use	0.053295857
All Other Sources	0.004453772
Fires	0.08065486

From: Jason Sloan [jsloan@csg.org]
Sent: 7/21/2017 3:21:43 PM
To: Jason Sloan [jsloan@csg.org]

Subject: Register Soon for AAPCA's 2017 Fall Meeting (Sept. 20 - 22) and the 2017 National Air Quality Conference (Sept. 11 -

13)

As a reminder, registration and hotel deadlines are approaching for the Association of Air Pollution Control Agencies' (AAPCA) 2017 Fall Business Meeting, which will be held September 20 – 22 in Raleigh, North Carolina, and the 2017 National Air Quality Conference, which will be held September 11 – 13 in Austin, Texas and is being co-sponsored by AAPCA.



September 20–22 | Doubletree by Hilton | Raleigh, North Carolina

AAPCA 2017 Fall Business Meeting in Raleigh, North Carolina

AAPCA's 2017 Fall Business Meeting will be held in Raleigh, North Carolina from September 20 – 22. You can register through the Association's website. Registration rates are \$125 for AAPCA members and personnel from local, state, and federal governments, and \$350 for non-governmental attendees. The registration page includes a tentative agenda, as well as hotel information for the Doubletree by Hilton Hotel – Brownstone – University (1707 Hillsborough Street, Raleigh, North Carolina 27605), including a direct link to book hotel rooms in AAPCA's hotel block at a rate of \$111/night plus applicable taxes and fees. The Doubletree by Hilton Hotel – Brownstone – University is approximately 12 miles from the Raleigh-Durham International Airport.

The hotel cut-off and meeting registration deadline is August 31, 2017.

AAPCA's Fall Business Meeting will kick off with a topical session on Long-term and Succession Planning on the afternoon of September 20, followed by AAPCA's closed Board session and an Opening Reception that evening. Both the topical session and Opening Reception are open to all attendees. Programming on Thursday, September 21 (8:00 AM – 5:30 PM) is open to all interested participants, and includes breakfast and a keynote luncheon. Sessions on Friday, September 22 (8:30 AM – 12:30 PM) are limited to AAPCA members and governmental attendees, and include a Committee Breakout Breakfast. An AAPCA Members-Only Lunch and Debrief will close out the meeting. AAPCA will provide participants a more detailed agenda, which will include panels, presentations, and discussion on timely Clean Air Act topics.

AAPCA expects senior officials from more than two dozen environmental agencies to attend, as well as robust participation from a number of U.S. EPA offices and several EPA Regions.





2017 National Air Quality Conference

Air Quality Forecasting and Mapping Communicating Air Quality

Sheraton Austin Hotel at The Capitol Austin, Texas

September 11-13, 2017

2017 National Air Quality Conference in Austin, Texas

The 2017 National Air Quality Conference, co-hosted by U.S. EPA and AAPCA, will be held in Austin, Texas from September 11 – 13 at the Sheraton Austin Hotel at the Capitol. Registration is available here, and hotel reservations can be made online here (room block rate of \$141/night plus applicable taxes/fees). You can also call the Sheraton's reservation line at 1-888-627-8349 to book your hotel room (reference "EPA National Air Quality Conference room block" for discounted group rate). The hotel reservation deadline is August 20, 2017.

More information on the National Air Quality Conference is available here, including a preliminary agenda. The general program will begin on Monday morning with an optional "Air Quality Index & AirNow 101" session for those new to air quality programs. The conference will officially kick off Monday afternoon with an opening plenary session, followed by focused breakout sessions, exhibits, and a poster session. The breakout sessions will include two tracks: air quality forecasting and mapping, and communicating air quality. Wednesday afternoon will feature a closing plenary session.

AAPCA is helping to plan the Air Quality Forecasting and Mapping technical track for the 2017 National Air Quality Conference. Please contact jsloan@csg.org with any questions or feedback concerning the technical track on air quality forecasting and mapping.

We look forward to seeing you in Raleigh and Austin in September – Thanks!

Jason E. Sloan Policy and Membership Associate Association of Air Pollution Control Agencies 1776 Avenue of the States Lexington, KY 40511 859.244.8043 - office jsloan@csg.org http://www.cleanairact.org



AAPCA ASSOCIATION OF AIR POLLUTION CONTROL AGENCIES

2017 FALL BUSINESS MEETING

September 20–22 | Doubletree by Hilton | Raleigh, North Carolina

From: Jason Eberstein [jeberstein@namanow.org]

Sent: 8/2/2017 7:02:59 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: quick follow up

Wanted to let you know we heard back from the stratospheric protection division on our petition – we're currently working to find a good time to go in for a technical conversation. They've been very welcoming and have expressed a desire to help us get to a smooth transition...I'll let you know how the meeting and follow ups go.

Thanks!

JE

Jason S. Eberstein Director, State and Federal Government Affairs NAMA 301.537.4114

From: Myrdal, Janne [jmyrdal@nd.gov]

Sent: 7/25/2017 4:08:08 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Sen. Myrdal/ND

Dear Ms. Gunasekara,

Just wanted to send you a quick email to thank you for your talk to our Energy and AG Taskforce at ALEC, - AND for our short conversation following the meeting. I sincerely appreciate your message on behalf of Sec. Pruitt and will make sure to communicate such back to the AG producers in my district.

If there is anything I can do to be of assistance to promote your refreshing agenda, please let me know at any time. Input from the true conservators of the land, the farmer and rancher, are key to growth AND conservation. Grass roots, if you will, knows the land and the people the best.

Again, thank you for your time and may God indeed bless you and your office as you serve this great nation.

J

Senator Janne Myrdal North Dakota District 10 jmyrdal@nd.gov 1 701 331 0946



The ultimate test of a moral society is the kind of world that it leaves to its children. (Dietrich Bonhoeffer)

From: Kaufmann, Robert C. [Robert.Kaufmann@kochps.com]

Sent: 7/28/2017 7:13:20 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Lomax, Steve [Steve.Lomax@kochps.com]

Subject: RE: Meeting with NEDA/CAP Briefly on July 27th Sometime Between 10-3.

Hi Mandy, I wanted to introduce myself—I'm the NEDA Chair, I'm very active in Joe Stanko's NAAQS Implementation Coalition, AFPA and CIBO, I head a small team focused on emerging environmental regulations here at Koch, and I work with Catherine Haggett (who sends her regards). Unfortunately, I will miss the NEDA meeting with you on August 11 (vacation), though my teammate Steve Lomax plans to attend. We are feeling a sense of urgency to get something done on our priority air issues, and while there is a lot of activity with our trades and coalitions, there is little forward momentum. Would you be available for a short meeting during the dog days of August to discuss our top issues and strategize about how to accomplish something quickly? We already have some irons in the fire. Thanks so much, keep up the good work!

Rob Kaufmann
Vice President, Environmental Regulatory Affairs
Koch Industries Inc
600 14th Street, NW Suite 800
Washington, DC 20005
(202) 879-8552
Robert.kaufmann@kochps.com

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, July 17, 2017 3:01 PM

To: Leslie Sue Ritts </ritts@ritts@arycoup.com>; Dominguez, Alexander <dominguez.alexander@epa.gov> Cc: al collins@oxy.com; Andy Eckstein, Esq. <eckstein.ta@pg.com>; Anu Kunapuli <anu.kunapuli@merck.com>; Barbara Bankoff (babankoff@gmail.com) <babankoff@gmail.com>; Catherine (EHLHARDT CATHERINE R@LILLY.COM) <EHLHARDT CATHERINE R@LILLY.COM>; Dana Wood (dana.wood@bp.com) <dana.wood@bp.com>; Dave C. Pavlich <Dave.C.Pavlich@p66.com>; david.l.shanks@boeing.com; DAVID VAN HOOG <David.VanHoog@bp.com>; David W. Moore (david.w.moore@boeing.com) <david.w.moore@boeing.com>; Don Robin <drobin@lilly.com>; Donna Carvalho (Donna.H.Carvalho@p66.com) <Donna.H.Carvalho@p66.com>; Elizabeth L. DuSold <e.dusold@lilly.com>; Elliott Heide (elliott_heide@oxy.com) <elliott_heide@oxy.com>; Valmont, Hannah <ValmontH@kochind.com>; Hermanson, Robert W <robert.hermanson@bp.com>; Jen Kreusch <kreusch_jennifer_lee_maund@lilly.com>; Cogswell, Jennifer <COGSWELJ@kochind.com>; Jessica LGonzalez <Jessica.Gonzalez@bp.com>; Kaufmann, Robert C. <Robert.Kaufmann@kochps.com>; Ken Comey (Kenneth.Comey@bp.com) <Kenneth.Comey@bp.com>; Kristin Marshall <kristin.b.marshall@boeing.com>; Mathews, Lara (INVISTA Legal) <Lara.Mathews@invista.com>; Leah M. Krider (Leah.M.Krider@boeing.com) <Leah.M.Krider@boeing.com>; Lomax, Steve <Steve.Lomax@kochps.com>; Maria Galloway <maria_galloway@merck.com>; Matthew L. Iwiki (matt.iwicki@boeing.com) <matt.iwicki@boeing.com>; Maxine Dewbury <dewbury.md@pg.com>; Antoine, Melissa K. <Melissa.Antoine@GAPAC.com>; Curtis, Michael <MICHAEL.CURTIS@GAPAC.com>; Michael R. Van Winkle MS CIH <mvw@lilly.com>; Myles P Culhane <Myles Culhane@oxy.com>; Nate Orosz (orosz.ns@pg.com), <orosz.ns@pg.com>; Peter Pagano <peter.a.pagano@boeing.com>; Jozwiak, Rochelle (INVISTA Legal) <Rochelle.Jozwiak@invista.com>; Gesser, Ryan <Ryan.Gesser@gapac.com>; Sturla Olsen (sturla.olsen@boeing.com) <sturla.olsen@boeing.com>; Wyles, Tammy R. <TRWYLES@GAPAC.com>; Zufall, Maria J. <Maria.Zufall@gapac.com> Subject: RE: Meeting with NEDA/CAP Briefly on July 27th Sometime Between 10-3.

Sent by an external sender

Happy to -1've cc'd Alex Dominguez who can help confirm the logistics.

From: Leslie Sue Ritts [mailto:lritts@rittslawgroup.com]

Sent: Monday, July 17, 2017 2:36 PM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>; GUNASEKARA. (MANDY@EPA.gov) < MANDY@EPA.gov> Cc: al_collins@oxy.com; Andy Eckstein, Esq. <eckstein.ta@pg.com>; Anu Kunapuli <anu.kunapuli@merck.com>; Barbara Bankoff (babankoff@gmail.com) <babankoff@gmail.com>; Catherine (EHLHARDT_CATHERINE_R@LILLY.COM) <EHLHARDT CATHERINE R@LILLY.COM>; Dana Wood (dana.wood@bp.com) <dana.wood@bp.com>; Dave C. Pavlich <Dave.C.Pavlich@p66.com>; david.l.shanks@boeing.com; DAVID VAN HOOG <David.VanHoog@bp.com>; David W. Moore (david.w.moore@boeing.com) <david.w.moore@boeing.com>; Don Robin <drobin@lilly.com>; Donna Carvalho (Donna.H.Carvalho@p66.com) < Donna.H.Carvalho@p66.com>; Elizabeth L. DuSold < e.dusold@lilly.com>; Elliott Heide (elliott_heide@oxy.com) <elliott_heide@oxy.com>; Hannah Valmont <valmonth@kochind.com>; Hermanson, Robert W <robert.hermanson@bp.com>; Jen Kreusch <kreusch jennifer lee maund@lilly.com>; Jennifer Cogswell <<u>COGSWELI@kochind.com</u>>; Jessica LGonzalez <<u>Jessica.Gonzalez@bp.com</u>>; Kaufmann, Robert C. <Robert.Kaufmann@kochps.com>; Ken Comey (Kenneth.Comey@bp.com) <Kenneth.Comey@bp.com>; Kristin Marshall <kristin.b.marshall@boeing.com>; Lara Mathews (lara.mathews@invista.com) <lara.mathews@invista.com>; Leah M. Krider (Leah.M.Krider@boeing.com) <Leah.M.Krider@boeing.com>; Lomax, Steve <Steve.Lomax@kochps.com>; Maria Galloway < maria galloway@merck.com>; Matthew L. Iwiki (matt.iwicki@boeing.com) < matt.iwicki@boeing.com>; Maxine Dewbury <dewbury.md@pg.com>; Melissa Antoine (melissa.antoine@gapac.com) <melissa.antoine@gapac.com>; Michael Curtis (MICHAEL.CURTIS@GAPAC.com) <MICHAEL.CURTIS@GAPAC.com>; Michael R. Van Winkle MS CIH <mvw@lilly.com>; Myles P Culhane <Myles_Culhane@oxy.com>; Nate Orosz (orosz.ns@pg.com), <orosz.ns@pg.com>; Peter Pagano <peter.a.pagano@boeing.com>; Rochelle Jozwiak

Subject: Meeting with NEDA/CAP Briefly on July 27th Sometime Between 10-3.

Per my phone message this am Mandy, I wondered if you would have time to meet with NEDA/CAP members on July 27th – next Thursday. We can come to your offices or you can come to us (Occidental Petroleum or Koch offices probably). The agenda would be very general and policy-oriented, an informal meet and greet with a discussion of our respective priorities.

<rochelle.jozwiak@invista.com>; RYAN GESSER (Ryan.Gesser@gapac.com) <Ryan.Gesser@gapac.com>; Sturla Olsen (sturla.olsen@boeing.com>; Tammy Wyles <trwyles@gapac.com>; Zufall, Maria J.

NEDA/CAP's members are US manufacturers and include Alcoa, Boeing, BP America, Eli Lilly, Georgia Pacific, Invista, Koch Public Sectors, Merck, Occidental Petroleum, Phillips 66 and Procter & Gamble. (Intel might want to join as well.)

Best wishes,

رح کی ا

Leslie Sue Ritts Ritts Law Group, PLLC 620 Fort Williams Parkway Alexandria, VA 22304

<Maria.Zufall@gapac.com>

Personal Email / Ex. 6

:

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From: Jennifer McDowell [jmcdowell@mema.org]

on behalf of Ann Wilson [awilson@mema.org]

Sent: 7/21/2017 3:01:45 PM

Subject: Join MEMA for a Panel Discussion on NAFTA and the Automotive Industry

You're Invited to MEMA's Policy Breakfast Series:

NAFTA and the Automotive Industry: What Will Keep America Competitive?

Wednesday, August 9, 2017 | 8:00 – 10:00 am
The National Press Club
529 14th Street NW, 13th Floor | Washington, DC 20045
Register Here

There is little doubt that upcoming proposals and policy changes impacting trade could profoundly affect the automotive industry. Now is the time to explore the potential impacts of renegotiating or modernizing the North American Free Trade Agreement (NAFTA) and implementing other critical trade rule changes.

MEMA, which represents the largest sector of manufacturing jobs in the US, will host a timely and lively discussion on the ways that NAFTA has helped the industry grow over recent years and what complexities would be involved in changing the rules. The discussion will also explore how prepared American companies are to reshore jobs to the US.

What changes to NAFTA would help support a level playing field while not harming American businesses? How do we find a path forward for motor vehicle parts suppliers and the automotive industry? We sincerely hope you will join us for this important dialogue that aims to answer these and other critical questions.

Agenda:

Breakfast: 8:00 a.m.Program: 8:30 a.m.

Panel Discussion: 8:35 a.m.

Questions: 9:30 a.m.

Panelists:

- John Bozzella, President and CEO, Global Automakers
- Linda Dempsey, Vice President, International and Economic Affairs, National Association of Manufacturers
- Eric Farnsworth, Vice President, Council of the Americas
- Charles Uthus, Vice President for International Policy, American Automotive Policy Council
- Ann Wilson, Senior Vice President Government Affairs, Motor & Equipment Manufacturers Association

Moderator:

Bruce Hirsh, Tailwind Global Strategies; former US Trade Representative for Japan, Korea, and APEC and former
 Chief International Trade Counsel for the US Senate Committee on Finance

Ann

Ann Wilson Senior Vice President of Government Affairs Motor & Equipment Manufacturers Association 1030 15th St. NW Suite 500 East Washington, DC 20005 (202) 312-9246 (office) (202) 320-7293 (cell)

Smith, Robert L. [RLSmithII@Venable.com] From: 7/26/2017 8:09:45 PM Sent: To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,] Subject: Hey Mandy – 10 days until we move to OXMS! Do you have 3 mins you spend on the phone with re: a matter related to NAFTA and reg reform? Thanks. --rob Rob Smith | Venable LLP \$ 202.344.4077 | \$ 202.344.8300 | Personal Email / Ex. 6 600 Massachusetts Ave, NW, Washington, DC 20001 rlsmith@venable.com | www.Venable.com ************************** This electronic mail transmission may contain confidential or privileged information. If you believe you have received this message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.

Case: 17-71692, 07/28/2017, ID: 10525423, DktEntry: 8, Page 1 of 2

UNITED STATES COURT OF APPEALS



FOR THE NINTH CIRCUIT

JUL 28 2017

MOLLY C. DWYER, CLERK U.S. COURT OF APPEALS

In re: UNITED STATES OF AMERICA; et al.

UNITED STATES OF AMERICA; et al.,

Petitioners,

V.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON, EUGENE,

Respondent,

KELSEY CASCADIA ROSE JULIANA; et al.,

Real Parties in Interest.

No. 17-71692

D.C. No. 6:15-cv-01517-TC-AA District of Oregon, Eugene

ORDER

Before: GOODWIN, KOZINSKI, and BERZON, Circuit Judges.

Petitioners' motion to file an over length petition for writ of mandamus (Docket Entry No. 2) is granted.

This petition for a writ of mandamus raises issues that warrant an answer. See Fed. R. App. P. 21(b). Accordingly, within 30 days after the date of this order, the real parties in interest shall file an answer.

LAB/MOATT

Case: 17-71692, 07/28/2017, ID: 10525423, DktEntry: 8, Page 2 of 2

In addition to any other issues the parties wish to address, the parties shall address the status of all current discovery requests; report all pending discovery deadlines; and identify any ongoing or expected discovery disputes. Additionally, the parties shall address whether the real parties in interest's constitutional challenge to Section 201 of the Energy Policy Act is within the district court's jurisdiction.

The district court, within 30 days after the date of this order, may address the petition if it so desires. The district court may elect to file an answer with this court or to issue an order and serve a copy on this court. Petitioners may file a reply within 14 days after service of the answer(s).

The Clerk shall serve this order on the district court and District Judge Ann L. Aiken.

LAB/MOATT 2

From: megan.berge@bakerbotts.com [megan.berge@bakerbotts.com]

Sent: 7/10/2017 4:13:41 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: ABA Webinar

Mandy -

I am on a call prepping for an upcoming ABA webinar. I hear you might be joining us! I hope your schedule ends up clearing.

This is one hell of a small world.

Megan

Megan Heuberger Berge

Partner

BAKER BOTTS L.L.P.

The Warner | 1299 Pennsylvania Ave., NW | Washington, DC 20004

Personal Email / Ex. 6

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From: Dave Flannery [Dave.Flannery@Steptoe-Johnson.com]

Sent: 7/18/2017 3:54:24 PM

To: Morris, Madeline [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=f42c86b4a2044779972ac94e098f0304-Morris, Mad]

CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: Midwest Ozone Group

Madeline

As you are looking at the Administrators schedule, please let me know what dates would be convenient with him and we will do our best to accommodate. I believe there are likely to be several electric utilities that are interested in attending the meeting. Please call my cell phone anytime to discuss.

David M. Flannery Steptoe & Johnson PLLC P.O. Box 1588 Charleston, WV 25326

Personal Email / Ex. 6

On Jul 18, 2017, at 11:05 AM, Gunasekara, Mandy < Gunasekara. Mandy @epa.gov > wrote:

Hi Madeline,

I'm following up to the below note regarding a meeting request and cc'ing Dave Flannery so you can respond directly. Please let me know if I can help.

Best, Mandy

From: Gunasekara, Mandy

Sent: Monday, June 26, 2017 2:02 PM

To: Morris, Madeline < morris.madeline@epa.gov >

Subject: FW: Midwest Ozone Group

Below is a meeting request from the Midwest Ozone Group (MOG). They'd like to come in and talk about ozone issues, especially in light of the recent announcement to delay designations. The dates

Personal Email / Ex. 6

Mandy

Additional Info:

MOG members and participants operate some 80,000 MW of coal-fired and coal-refuse fired generation in more than ten states. The members of and participants in the MOG include: American Coalition for Clean Coal Electricity, American Electric Power, American Forest & Paper Association, Ameren, Alcoa, ARIPPA, Associated Electric Cooperative, Citizens Energy Group, Council of Industrial Boiler Owners, Duke Energy, East Kentucky Power Cooperative, FirstEnergy, Indiana Energy Association, Indiana Utility Group, LGE / KU, Ohio Utility Group, Olympus Power, and the Springfield (IL) City Water, Light & Power.

Dates that are available for a meeting with the Administrator include:

July 11, 12, 13, 14, 24, 25, 26, and 27.

From: Dave Flannery [mailto:Dave.Flannery@Steptoe-Johnson.com]

Sent: Monday, June 26, 2017 11:25 AM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Subject: Midwest Ozone Group

Mandy

Given the Administrator's letter of June 7, 2017 extending the deadline for making nonattainment designations related to the 2015 ozone NAAQS and calling for an assessment of international transport and other considerations related to the 2015 ozone NAAQS, I am providing a link and an attachment involving both a white paper and PowerPoint presentation prepared by the Midwest Ozone Group which assess the significance of international transport impact in 2017 and provide an overall assessment of improvements in ozone air quality:

White paper:

http://www.midwestozonegroup.com/files/Assessment_of_International_Transport_and_Improved Ozone Air Quality 62.22.17.docx

PowerPoint:

http://www.midwestozonegroup.com/files/Assessment of International Transport and Improved Ozone Air Quality 6.22.17.ppt

We would be pleased to comment on these in a meeting with the Administrator. In the meantime, if you have any questions about these documents, please contact me.

12

Dave Flannery

Steptoe & Johnson PLLC P.O. Box 1588, Charleston, WV 25326-1588 Overnight Chase Tower, 8th Floor 707 Virginia Street, East, Charleston, WV 25301

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Personal Email / Ex. 6

Personal Email / Ex. 6

From: Dave Flannery

Sent: Friday, June 02, 2017 2:54 PM

To: 'Mandy Gunasekara (Gunasekara.mandy@epa.gov)'

Subject: Midwest Ozone Group

Mandy

Thanks for taking some time with me on May 31, 2017, to discuss the Midwest Ozone Group (MOG) and its interest in meeting with Administrator Pruitt to discuss both its Petition to Reconsider the CSAPR Update filed on December 23, 2016, and its Regulatory Reform comments filed on May 15, 2017. These documents (both of which are attached) describe MOG's concerns about the technical and legal issues associated with the modeling and

development of the CSAPR Update and the general implementation of the ozone NAAQS. Among these concerns are the failure to have considered existing on-the-books control programs, the failure to have accounted for the effects of international emissions and the imposition of control requirements solely on electric generating units, resulting in prohibited "over control" of sources in many states.

MOG members and participants operate some 80,000 MW of coal-fired and coal-refuse fired generation in more than ten states. The members of and participants in the MOG include: American Coalition for Clean Coal Electricity, American Electric Power, American Forest & Paper Association, Ameren, Alcoa, ARIPPA, Associated Electric Cooperative, Citizens Energy Group, Council of Industrial Boiler Owners, Duke Energy, East Kentucky Power Cooperative, FirstEnergy, Indiana Energy Association, Indiana Utility Group, LGE / KU, Ohio Utility Group, Olympus Power, and the Springfield (IL) City Water, Light & Power.

Dates that are available for a meeting with the Administrator include:

June 12, 13, 14, 15, 19, and 20. July 11, 12, 13, 14, 24, 25, 26, and 27.

If need anything more from us related to the scheduling of this meeting, please let me know.

Dave Flannery

Steptoe & Johnson PLLC P.O. Box 1588, Charleston, WV 25326-1588 Overnight Chase Tower, 17th Floor 707 Virginia Street, East, Charleston, WV 25301

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<image001.png>

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From: Eames, Frederick R. [feames@hunton.com]

Sent: 7/12/2017 1:10:54 AM

To: Yamada, Richard (Yujiro) [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=4c34a1e0345e4d26b361b5031430639d-Yamada, Yuj]

CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: Connect

Thank you both. Was out of the office today so sorry for the delay. Richard, my direct line is Personal Phone / Ex. 6

...... Sent from my iPad

On Jul 11, 2017, at 8:15 AM, Yamada, Richard (Yujiro) <yamada.richard@epa.gov<mailto:yamada.richard@epa.gov>> wrote:

Hi Fred,

Thank you for reaching out - happy to talk with you. What number can I best reach you at?

And thanks Mandy for the introduction!

Warm regards,

Richard

Sent from my iPhone

On Jul 11, 2017, at 8:05 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>> wrote:

Hi Fred,

Following up from my voice mail, I'm connecting you with Richard Yamada. He is our Deputy in the Office of Research and Development and is best suited to give you information regarding CASAC.

Richard, Fred is a good friend and a long time environmental expert I've relied on since day one on Capitol Hill. He has a question regarding potential applicants for CASAC.

I'll leave it to you both to find a time to connect.

Best, Mandy

Mandy M. Gunasekara Senior Policy Advisor for Office of Air and Radiation Office of the Administrator US Environmental Protection Agency

GfK Custom Research [chenderson@e1.surveys2.com] From:

7/26/2017 1:54:21 AM Sent:

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Survey about Trust in the Media

Greetings,

GfK, an independent market research company, is conducting a **short** survey about views of the media. As a leader and dedicated public servant in Washington DC, we believe your perspective would be tremendously valuable to our understanding of this topic.

Please rest assured that GfK ensures your confidentiality and anonymity – no one will be able to tie the opinions voiced in the survey back to you or the office for which you work

We greatly appreciate and value your time and in exchange for your participation, GfK will donate \$20 to your choice of three charities: The Wounded Warrior Project, The American Cancer Society, or The American Heart Association. We would also be happy to share the results of the study with you later this year.

If clicking on the link does not work, cut and paste the link into your browser. We look forward to hearing from you! Thank you in advance for your participation!

https://www.surveys.com/start.aspx?SurveyName=USC507516&ID=199580&ENC=J13FVuqGGKFjr6b9Wy7 2sdmCFW8

Should you have content or technical questions, please contact: chenderson@e.surveys.com.

To unsubscribe from ask GfK, please click here:

https://unsubscribe.surveys.com/unsubscribe.aspx?r=199580&m=gunasekara.mandy@epa.gov&t=USC507516

Thank you in advance for participating. We look forward to hearing from you.

For our in private policy please click on the link:

http://www.gfk.com/us/Pages/Research-Participant-Privacy-Policy.aspx

To reach us by mail: Reach us by mail at: **GfK Panel Services** 120 Eagle Rock Ave Ste. 200

East Hanover, NJ 07936-9848

From: Michael Stafford [MStafford@ajw-inc.com]

Sent: 7/12/2017 4:42:51 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: RE: Trying to Reboot on Scheduling the HEI Meeting We Discussed

Mandy, thanks much!

Alex—See below email trail for background on the meeting. Mandy has suggested that Samantha and Brittany be included in the meeting, certainly makes sense from our perspective.

Dan Greenbaum and Bob O'Keefe are flying in this Friday (14th) for a 1:00 PM with Richard Yamada of your shop. Certainly they could come down as early on Friday, or stay as late as needed, for any potential meeting with Mandy and whomever else she would like to include on your end. If Friday doesn't work, they could fly in for a meeting either next Tuesday or Wednesday.

Please let me know your thoughts on potential meeting times as soon as possible, since this involved travel plans on our end. If for any reason, you need to call me please use my cell, listed below.

Thanks and holler if you need anything additional from me at this time.

Michael

Michael Stafford Partner AJW, Inc. 202-296-8086/Ext. 104 (Office) 202-299-4577 (Cell)



AJW's work focuses on enhancing market opportunities and removing market barriers for innovative technologies.

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Wednesday, July 12, 2017 8:56 AM

To: Michael Stafford < MStafford@ajw-inc.com>

Cc: Dominguez, Alexander < dominguez.alexander@epa.gov>

Subject: RE: Trying to Reboot on Scheduling the HEI Meeting We Discussed

Michael,

I apologize for the delayed response! I've cc'd Alex who can help set up the logistics. I look forward to seeing you soon.

Best, Mandy

From: Michael Stafford [mailto:MStafford@ajw-inc.com]

Sent: Friday, July 7, 2017 10:18 AM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Subject: Trying to Reboot on Scheduling the HEI Meeting We Discussed

Mandy:

Trying again to reconnect with you on scheduling the meeting with the Health Effects Institute (HEI) to brief you, and possibly Samantha and Brittany, on HEI's recent partnership with key oil and gas industry companies in support of an HEI research initiative in the area of unconventional oil and gas development. See my below emails for refresher. Since talking with you couple weeks back we've had a good meeting with Rep. Tom Cole (R-OK) as well as moving things further with industry engagement and it is becoming increasingly important to meet with some of your folks on where things stand.

Mandy, I fully recognize how jammed you and your colleagues are right now but would much appreciate your efforts to work this meeting into your schedule next week. The HEI folks could make it work on Monday, Tuesday, Thursday or Friday of next week at any time you could schedule. They could potentially meet Wednesday but on a far more limited basis.

On a personal note, I was scheduled to fly home to Arkansas this week due to some family commitments, but postponed it in hopes of getting this meet scheduled prior to being out of town. I am now scheduled to fly home late next Thursday afternoon and would prefer to set the HEI meeting at EPA earlier in the week next week, if that's possible from your end.

Thanks and hope you can give me some guidance on where things stand.

Best regards, Michael

Michael Stafford Partner AJW, Inc. 202-296-8086/Ext. 104 (Office) 202-299-4577 (Cell)



AJW's work focuses on enhancing market opportunities and removing market barriers for innovative technologies.

From: Michael Stafford

Sent: Friday, June 23, 2017 12:08 PM

To: Gunasekara, Mandy < <u>Gunasekara.Mandy@epa.gov</u>> **Subject:** FW: Request to Schedule a Meeting With You

Mandy:

Know your juggling a lot but wanted to check in to see if you've had a chance to move forward on scheduling the HEI meeting next week on 28th, 29th or 30th. Dan and Bob will be flying in from Boston so any advanced notice you could send this way would be much appreciated in terms of making their travel and hotel plans.

Thanks and holler if you need any info in addition to my earlier email (below), or need me to follow up with your scheduling staff in any way.

Best regards Michael

Michael Stafford Partner AJW, Inc. 202-296-8086/Ext. 104 (Office) 202-299-4577 (Cell)



AJW's work focuses on enhancing market opportunities and removing market barriers for innovative technologies.

From: Michael Stafford

Sent: Tuesday, June 20, 2017 12:51 PM

To: Gunasekara, Mandy < <u>Gunasekara.Mandy@epa.gov</u>> **Subject:** Request to Schedule a Meeting With You

Mandy:

Thanks again for taking my call and working to set up a meeting with the Health Effects Institute (HEI) leadership, Dan Greenbaum (President) and Bob O'Keefe (VP). As we discussed, they can fly into DC and meet at whatever time works for your schedule on June 28th, 29th or 30th. Your suggestion to potentially include Samantha and Brittany makes a lot of sense. Dan and Bob have previously met with Britney, during her time at EPW as well as earlier this year following her move to EPA—but I don't believe they had a detailed discussion on their research initiative in the area of unconventional oil and gas development.

As you know, HEI is nationally and internationally respected for high quality and independent research. Despite the current political divide on Capitol Hill on air quality and air emissions issues, HEI's expertise and/or testimony has been called on regularly by both the Majority and Minority, including Senate EPW, House E&C and House Science. At the request of House Science Committee Chairman Lamar Smith earlier this month, Dan and Bob provided an in depth briefing to Majority Members and staff on HEI's ongoing efforts in the area of accountability research: *Holding Regulations Accountable: Do Air Quality Actions Accomplish Predicted Benefits?* FYI—Dan delivered the same presentation last month to Clint's AAPCA membership.

It is largely due to HEI's long history and strong reputation for independent research, bipartisan support and balanced public-private funding support that has led several key industry partners to support an HEI research initiative in the area of unconventional oil and gas development. Dan and Bob can fill you in on the full background of industry support but I know industry funding partners currently include Chevon, ConocoPhillips, ExxonMobil, Shell, Halliburton, Noble, Statoil and others. We should also update you on discussions with Senate and House Appropriations folks.

Holler if you have any questions or need additional information at this time. When you have a moment, if you can shoot your preferred time for the meeting on June 28, 29 or 30, I'll get back to you quickly to confirm.

Thanks again and best regards,

Michael

Michael Stafford Partner AJW, Inc. 202-296-8086/Ext. 104 (Office) 202-299-4577 (Cell)



AJW's work focuses on enhancing market opportunities and removing market barriers for innovative technologies.

From: Toomey, Jon [Jon.Toomey@mail.house.gov]

Sent: 7/18/2017 9:24:50 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Thank you

Thanks again, Mandy. Any idea for timing?

Best, Jon

Ion Toomey

Legislative Counsel

Jon.Toomey@mail.house.gov

Congressman Diane Black (TN-06)

1131 Longworth HOB

Washington, DC 20515

202.225.4231 (phone) | 202.225.2887 (fax)

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Thursday, July 13, 2017 10:06 PM

To: Toomey, Jon Subject: Re: Thank you

Thanks, Jon. It was great connecting with you and your boss today. Thanks for your work as well. I'll keep you looped in on the timing so your comms team can coordinate with ours.

Best, Mandy

Sent from my iPhone

On Jul 13, 2017, at 6:01 PM, Toomey, Jon < Jon. Toomey@mail.house.gov> wrote:

Mandy,

Thank you for all of your hard work on this issue. I'll be sure to have the Chairman pass a note to Administrator Pruitt about your efforts!

Looking forward to the presser.

Thanks!! Jon

m. (202) 510-2934

Jon Toomey

Legislative Counsel

Jon.Toomey@mail.house.gov

Congressman Diane Black (TN-06)

1131 Longworth HOB Washington, DC 20515 202.225.4231 (phone) | 202.225.2887 (fax)

From: Rebecca Combs-Dulaney [rcombsdulaney@gmail.com]

Sent: 7/12/2017 12:15:40 AM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Barrino, Reginald [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=376274ec85a24ff1a1f5a4f002ffdc57-Barrino, Reginald]; Traylor, Patrick

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=b6d06c6b766c4b4b8bfdf6b0fea4b998-Traylor, Pa]

Subject: Re: Clerical Error

Patrick,

I have not responded to Mr Chow.

Sent from my iPhone

On Jul 10, 2017, at 11:30 AM, Gunasekara, Mandy < <u>Gunasekara.Mandy@epa.gov</u>> wrote:

Rebecca,

I'm cc'ing you with my colleague Patrick Traylor who recently joined EPA and is the new Deputy Assistant Administrator for the Office of Enforcement and Compliance Assistance. He will be in the best position to assist with you in this matter.

Best, Mandy

From: Rebecca Combs-Dulaney [mailto:rcombsdulaney@gmail.com]

Sent: Monday, July 10, 2017 12:13 PM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov >; Barrino, Reginald < Barrino. Reginald@epa.gov >

Subject: Clerical Error

Mandy,

As you can see our Environmental Engineer Consultant, Andrew Covington received this email from Eddie Chow in the Atlanta office on Thurs. I was not cc:d on this by Mr. Chow even though he is aware of my participation in this matter. Mandy, this is outrageous. Structural Steel Services committed a clerical error only, by failing to report the zinc dust levels, etc which emissions are absolutely allowable under EPA designation. We still don't know how it happened, but our long-time employee who has worked within the EPA rulings for 42 years, simply didn't include them in his report. As I stated it is an allowable practice - no environmental violation was committed. We would never, and I repeat, never, do that.I

As you know we submitted a SEP to reduce the clay dust created by the use of very heavy equipment which has a demonstrated precedent out of Oregon. This was the only correlation with could find with the emission of zinc dust.

We are only doing allowable practices. We have corrected the reporting issue.
Mr. Chow, and Ms. White have not been helpful in any way, and now this. The Atlanta office is wholly out of line here. We are a company that only practices best practices in every sense.
We have corrected the reporting error. This issue and the money we have expended on this for over a year is utter nonsense. It has prevented us from hiring additional employees to keep up and expand our business because this has become an unknown and out of hand expense.
Please, can you get this utter nonsense to stop? Rebecca
From: Chow, Eddie [mailto: Chow.Eddie@epa.gov]
Sent: Thursday, July 06, 2017 10:47 AM
To: Andrew Covington <a covington@allenes.com=""> Cc: White, Erika Swhite.Erika@epa.gov> Bookman, Robert Bookman.Robert@epa.gov> Subject: Supplemental Environmental Project for Structural Steel
Mr. Covington,
Thank you for submitting the SEP proposal. In order for us to fully consider the proposed SEP we would need you to specify which of the TRI chemical(s) would be addressed by the SEP. Please quantify the amount of the chemical(s) released and how much of a reduction would the paving achieve. Also please indicate if any of the TRI chemicals(s), to be addressed by the SEP, are already required to be controlled under a permit.
Kind regards,

Eddie Chow

U.S. EPA - Region IV

Chemical Management & Emergency Planning Section

Rebecca Combs-Dulaney Vice President Structural Steel Services, Inc. PO BOX 2929 6210 St. Louis St. Meridian, MS 39302

Personal Email / Ex. 6

From: Jon Niermann [Jon.Niermann@Tceq.Texas.Gov]

Sent: 7/21/2017 1:23:56 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: RE: Texas Air Issues

Hello Mandy,

No apology necessary! I can appreciate how busy your life is at the moment. I'll put Alex together with my scheduler. Thank you!

- Jon

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Friday, July 21, 2017 7:45 AM

To: Jon Niermann < Jon. Niermann@Tceq. Texas. Gov>

Cc: Dominguez, Alexander < dominguez.alexander@epa.gov>

Subject: Re: Texas Air Issues

Hi Commissioner,

I apologize for the delayed response. I've CC'd Alex who can help finalize a time to chat.

I hope you are well.

Best, Mandy

Sent from my iPhone

On Jul 14, 2017, at 10:58 AM, Jon Niermann < Jon. Niermann@Tceq.Texas.Gov> wrote:

Greetings Mandy,

I just left you a voicemail message, but thought it might be helpful to follow up with an email. I would like maybe 10 minutes to visit with you about SO2 monitoring and about next steps on the SSM issue. Can you suggest a convenient time talk? I look forward to visiting with you.

- Jon

512-239-5505

Jon Niermann, Commissioner Texas Commission on Environmental Quality

<image001.jpg>

From: rappoldb@gtlaw.com [rappoldb@gtlaw.com]

7/24/2017 10:24:26 PM Sent:

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dominguez, Alexander

[/o=ExchangeLabs/ou=Exchange Administrative Group]

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

CC: tim@sorghumgrowers.com; JohnE@midwestcan.com

Subject: National Sorghum Producers | Sorghum Oil RFS Petition | Follow-up

Importance: High

Dear Mandy -

Here's hoping this note finds you doing well – and not melting in this heat.

I left you a voicemail just now regarding the National Sorghum Producer's RFS petition for sorghum oil-derived biodiesel.

The NSP and its members are eager for expeditious pathway approval.

We are optimistic that the Agency agrees that the pathway is approvable. (If we are mistaken in that belief, kindly let us know.) The key question now is when and how that approval will be rendered.

Expediting this pathway approval will help the Agency deliver on the president's and Administrator Pruitt's directives to ease the regulatory burden on small businesses. It will also help the EPA make available millions of gallons of renewable fuel in fulfillment of its Congressional mandate and in furtherance of the nation's energy independence.

We appreciate that you and your colleagues have \underline{a} lot on your plates. Anything you can do to expedite the process is much appreciated.

Of course, if there is additional information you require from us, kindly let us know.

Thank you in advance for your attention and ongoing service.

Best regards,

Bernadette

Bernadette M. Rappold Shareholder Greenberg Traurig, LLP | 2101 L Street N.W. | Washington, D.C. 20037 Tel 202.331.3127 | Cell 202.412.3580 rappoldb@gtlaw.com | www.gtlaw.com





If you are not an intended recipient of confidential and privileged information in this email, please delete it, notify us immediately at postmaster@gtlaw.com, and do not use or disseminate such information.

From: Keniece Barbee [kbarbee@corn.org]

Sent: 7/21/2017 1:22:20 PM

To: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Kyle Harris

[kharris@corn.org]; David M. (Max) Williamson [maxwilliamson@williamsonlawpolicy.com]

Subject: RE: EPA Meeting

Thank you so much Alex for all your efforts with this meeting, it is appreciated.

Have a wonderful weekend.

Regards,

Keniece Barbee

Assistant to President and C.E.O. Corn Refiners Association



1701 Pennsylvania Avenue, N.W.

Suite 950

Washington, DC 20006 Main: (202) 331-1634 Direct: (202) 534-3491 Fax: (202) 331-2054 www.corn.org

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From: Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]

Sent: Thursday, July 20, 2017 5:53 PM **To:** Keniece Barbee <kbarbee@corn.org>

Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Kyle Harris <kharris@corn.org>; David M. (Max) Williamson

<maxwilliamson@williamsonlawpolicy.com>

Subject: RE: EPA Meeting

Thank you very much. Let's do Wednesday, July 26 at 4:00-5:00. Updating the invite now.

Alex

From: Keniece Barbee [mailto:kbarbee@corn.org]

Sent: Thursday, July 20, 2017 4:29 PM

To: Dominguez, Alexander < dominguez.alexander@epa.gov >

Cc: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>; Kyle Harris < kharris@corn.org>; David M. (Max) Williamson

<maxwilliamson@williamsonlawpolicy.com>

Subject: RE: EPA Meeting

Hi Alex.

Thank you for the email. Of course we are disappointed but these things happen.

After speaking with my office we would like to try and find a new time that works for Mandy to be present. Here are some times on Tuesday and Wednesday that work for our side. Please let me know if any of these time blocks work for your office.

Tuesday, July 25th, 11-2:30PM Wednesday July 26th, 4:00-5:00PM Thursday July 27th 9:30AM, 4:00PM

Thank you!

Regards,

Keniece BarbeeAssistant to President and C.E.O.
Corn Refiners Association



1701 Pennsylvania Avenue, N.W.

Suite 950

Washington, DC 20006 Main: (202) 331-1634 Direct: (202) 534-3491 Fax: (202) 331-2054 www.corn.org

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From: Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]

Sent: Thursday, July 20, 2017 3:29 PM **To:** Keniece Barbee <kbarbee@corn.org>

Cc: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>

Subject: EPA Meeting

Hey Keniece,

I was just informed that Mandy is getting pulled into a meeting with the Administrator tomorrow at 10:30 so unfortunately our political team you all were expecting to attend tomorrow are not going to be there. However, myself and staff from OGC and OAR are still planning to attend. My question is - if you are fine meeting with our other staff we

can keep the meeting for tomorrow, but if you prefer Mandy and others to be there we can move the meeting to Monday morning. Please let me know.

Alex

Alex Dominguez

Policy Analyst to the Senior Advisors to the Administrator for Air and Water U.S. Environmental Protection Agency

From: Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]

Sent: 7/5/2017 4:35:58 PM

To: McGrath, William J. [wmcgrath@bhfs.com]

CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Meeting request

Bill – I am recused from working on oil and gas matters, including this rulemaking. I suggest reaching out to Mandy Gunasekara, Senior Advisor to the Administrator for Air and Radiation.

From: McGrath, William J. [mailto:wmcgrath@bhfs.com]

Sent: Wednesday, July 5, 2017 12:17 PM **To:** Brown, Byron

Srown, Byron@epa.gov>

Subject: Meeting request

Byron,

I am writing to request a meeting on behalf of our client <u>WPX energy</u> on July 26th. They are in town the and are most concerned about the QuadOa regulations and how that affects their operations. Do you have any time available on the 26th and if not is there any other political appointee available for a meeting?

Thanks, Bill

William J. McGrath

Brownstein Hyatt Farber Schreck, LLP 1155 F Street N.W., Suite 1200 Washington, DC 20004 202.383.4703 tel wmcgrath@bhfs.com

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From: Susan Butler [sbutler@capitolresourcesllc.com]

Sent: 7/18/2017 3:00:13 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dominguez, Alexander

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: RE: small refinery hardship

Attachments: houseFY18e&wreportlanguage.pdf

I accidentally hit send before finishing my previous email. Attached please find the FY18 House E&W report language (modified from last year.) The Senate will mark up E&W this week.

Our small refinery coalition would like to meet with you re: hardship. Please let me know some good windows for you and we will get a meeting scheduled.

Many thanks, Susan

From: Susan Butler

Sent: Tuesday, July 18, 2017 10:54 AM

To: gunasekara.mandy@epa.gov; Alexander Dominguez (dominguez.alexander@epa.gov)

<dominguez.alexander@epa.gov>
Subject: small refinery hardship

Mandy, it was good to talk to you yesterday.

Susan Butler
Capitol Resources LLC
915 Prince Street
Alexandria, VA 22314
(703)739-5860 (office)
(703)298-2826 (cell)

From: Manning, Tina [tmanning@deltacouncil.org]

Sent: 7/21/2017 9:15:57 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Meeting with Chip Morgan

Mandy,

Chip will be in Washington next week and would like to visit with you if you have any time. Chip looks good late Monday and Tuesday afternoon. He also has some time on Wednesday. Just let us know what you have available and we look forward to hearing from you.

Thanks,

Tina Manning Delta Council Staff

From: Libby Wuller [libby@quorum.us]

Sent: 7/24/2017 6:07:21 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Coffee soon

Flag: Follow up

Mandy-

We met briefly after you spoke at ALEC last week and I mentioned that I once interned in Inhofe's office! Would love to hear more about your work and time on the hill. Do you have time for coffee in the next few weeks? Happy to come to you!

Libby

Libby Wuller
Business Development, Quorum
www.quorum.us | 405-742-7466

From: Gunasekara, Surya [Surya@mail.house.gov]

Sent: 7/25/2017 3:28:58 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dominguez, Alexander

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: Fwd: Urge EPA Administrator Pruitt to Scrap Obama CERCLA Rule **Attachments**: Dear colleague and CERCLA letter to Pruitt.pdf; ATT00001.htm

Surya G. Gunasekara 202-288-8657

Begin forwarded message:

From: "Small, Jeff" < Jeff.Small@mail.house.gov>

Date: July 25, 2017 at 10:07:10 AM EDT **To:** "Small, Jeff" < Jeff.Small@mail.house.gov>

Cc: "Walker, Stephanie" < Stephanie. Walker@mail.house.gov>, "Ybarra, Cesar"

<<u>Cesar.Ybarra@mail.house.gov</u>>, "Cornett, Bobby J" <<u>Bobby.Cornett@mail.house.gov</u>>, "Hanson,

Tanner" < Tanner. Hanson@mail.house.gov>

Subject: RE: Urge EPA Administrator Pruitt to Scrap Obama CERCLA Rule

Reps. Amodei, Biggs, Franks and Gosar are leading a letter to EPA Administrator Pruitt urging him to scrap the Obama Administration's burdensome new financial requirements rule for the hardrock mining.

As it stands, the EPA's proposed rule will produce a duplicative layer of financial responsibility regulations on top of the financial obligations already mandated by existing state and federal regulations.

We are closing the letter **Thursday COB**.

Endorsements: the National Mining Association.

Signers so far: Amodei, Biggs, Cramer, Jeff Duncan, Franks, Gosar and Don Young.

Please let us know if your boss would like to sign the letter. Thank you for your consideration.

Jeff Small

Executive Director | Congressional Western Caucus Senior Advisor | Congressman Paul A. Gosar, D.D.S.

Urge EPA Administrator Pruitt to Scrap Obama CERCLA Rule

Protect hardrock mining, jobs and domestic manufacturing

Deadline Thursday, July 27th COB

Endorsements: the National Mining Association.

Signers so far: Amodei, Biggs, Cramer, Jeff Duncan, Franks, Gosar and Don Young.

Dear Colleague:

Please join us in sending a letter to U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt urging him to scrap the Obama Administration's burdensome new financial requirements for the hardrock mining (HRM) industry in the form of the proposed CERCLA Rule published on January 11, 2017.

This proposed regulation is duplicative, unnecessary and punitive to an industry that generates more 1.2 million jobs and provides approximately \$3 trillion in added value to America's gross domestic product (GDP).

As drafted, the rule is overly-expensive—requiring costs by conservatively estimated by EPA at \$7.1 billion dollars. Rescission

State and federal regulations already mandate robust financial responsibility safeguards for the HRM industry. Little to no environmental benefits would result from this regulatory behemoth.

If implemented, the proposed rule would have devastating consequences for our economy including decreasing competitiveness abroad, increasing reliance on foreign nations for our mineral needs, decimating the economies of local communities, and causing significant revenue shortfalls at the state and local level.

The letter urges EPA to choose the "no action" alternative and allow the current financial requirements already in place to continue.

The full letter is below. To sign on, please email <u>Tanner.Hanson@mail.house.gov</u> (Western Caucus), <u>Bobby.Cornett@mail.house.gov</u> (Franks), <u>Stephanie.Walker@mail.house.gov</u> (Amodei) or <u>Cesar.Ybarra@mail.house.gov</u> (Biggs).

Sincerely,

Trent Franks Member of Congress Paul A. Gosar, D.D.S. Member of Congress Mark Amodei Member of Congress Andy Biggs Member of Congress

July xx, 2017

The Honorable Scott Pruitt Administrator U.S. Environmental Protection Agency William Jefferson Clinton Building 1200 Pennsylvania Ave., NW Mail Code: 1101A Washington, D.C. 20460

Dear Administrator Pruitt,

We write to express our concern related to the U.S. Environmental Protection Agency's (EPA) proposed rule, "Financial Responsibility Requirements Under CERCLA 108(b) for Classes of Facilities in the Hardrock Mining Industry," which was published in the Federal Register on January 11, 2017 (82 Fed. Reg. 3388).

This proposed regulation is duplicative, unnecessary and punitive to an industry that generates more than 1.2 million jobs and provides approximately \$3 trillion in added value to America's gross domestic product (GDP).

We greatly appreciate the comment period extension EPA granted earlier this year, which was necessary to allow stakeholders an opportunity for thoughtful review and comment on this complex and important issue.

Today, we reiterate several troubling issues already raised throughout the rulemaking process. The fact remains that EPA's rule seeks to impose excessive and duplicative financial assurance obligations on the hardrock mining and mineral processing (HRM) industry, which will lead to needlessly damaging economic consequences for the industry without yielding even nominal environmental benefits.

Moreover, EPA's imprudent proposal sets a bad precedent for other industry sectors identified by the agency as targets for future CERCLA financial responsibility rules, including chemical manufacturing, oil and gas, and electric utilities.

As it stands, the EPA's proposed rule will produce a duplicative layer of financial responsibility regulations on top of the financial obligations already mandated by existing state and federal regulations. We do not believe that EPA's assessment of the HRM industry appropriately accounted for the comprehensive federal and state programs and associated financial assurance safeguards already in place. These programs ensure that all phases of mining, reclamation, closure and post-closure are designed and operated to provide protection against the very same risks EPA seeks to address in the rule. If EPA finalizes this rule as proposed, the agency will usurp states' regulatory purview and needlessly duplicate stringent state and federal requirements.

EPA's Regulatory Impact Analysis estimates that this rule will impose \$7.1 billion in new financial responsibility obligations on the HRM industry. *See* 82 Fed. Reg. at 3392. According to EPA's data, the proposed rule will require HRM facilities to incur \$171 million per year in new financial responsibility costs, while only saving the government \$15.5 million per year. Id. at 3440.

Analyses conducted by affected industries include more comprehensive considerations and assumptions based on knowledge of industry operations. Such analyses estimate the cost of this new federal program to be significantly higher than EPA's already-crippling projections.

The high costs of compliance with the rule will further discourage domestic mineral production and stymie future investment and development opportunities. In turn, this regulation will increase our nation's import reliance on metals and minerals from foreign countries—putting the United States domestic manufacturing, energy, and national security sectors at a major competitive disadvantage. This rule will also have substantial adverse impacts on local economies that depend on high-paying, living-wage HRM industry jobs to support families and generate sufficient tax revenue for local and state governments.

We understand that EPA is currently under a court order to issue a notice of final action by Dec. 1, 2017. As such, we strongly urge you to review and carefully consider industry and Congressional input. It is our hope that you will conclude, as we have, that this rulemaking is duplicative and unnecessary on account of existent, robust financial responsibility requirements already in place at the state and federal level. The current rulemaking is unnecessary. The agency should choose the "no action" alternative and allow the current requirements already in place to continue.

Thank you for your consideration, and please do not hesitate to contact our offices if we can be of further assistance in these matters.

Sincerely,

Urge EPA Administrator Pruitt to Scrap Obama CERCLA Rule

Protect hardrock mining, jobs and domestic manufacturing

Deadline Thursday, July 27th COB

Endorsements: the National Mining Association.

Signers so far: Amodei, Biggs, Cramer, Jeff Duncan, Franks, Gosar and Don Young.

Dear Colleague:

Please join us in sending a letter to U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt urging him to scrap the Obama Administration's burdensome new financial requirements for the hardrock mining (HRM) industry in the form of the proposed CERCLA Rule published on January 11, 2017.

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As drafted, the rule is overly-expensive—requiring costs by conservatively estimated by EPA at \$7.1 billion dollars. Rescission

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If implemented, the proposed rule would have devastating consequences for our economy including decreasing competitiveness abroad, increasing reliance on foreign nations for our mineral needs, decimating the economies of local communities, and causing significant revenue shortfalls at the state and local level.

The letter urges EPA to choose the "no action" alternative and allow the current financial requirements already in place to continue.

The full letter is below. To sign on, please email <u>Tanner.Hanson@mail.house.gov</u> (Western Caucus), <u>Bobby.Cornett@mail.house.gov</u> (Franks), <u>Stephanie.Walker@mail.house.gov</u> (Amodei) or <u>Cesar.Ybarra@mail.house.gov</u> (Biggs).

Sincerely,

Trent Franks Member of Congress Paul A. Gosar, D.D.S. Member of Congress

Mark Amodei Member of Congress Andy Biggs Member of Congress

July xx, 2017

The Honorable Scott Pruitt Administrator U.S. Environmental Protection Agency William Jefferson Clinton Building 1200 Pennsylvania Ave., NW Mail Code: 1101A Washington, D.C. 20460

Dear Administrator Pruitt,

We write to express our concern related to the U.S. Environmental Protection Agency's (EPA) proposed rule, "Financial Responsibility Requirements Under CERCLA 108(b) for Classes of Facilities in the Hardrock Mining Industry," which was published in the Federal Register on January 11, 2017 (82 Fed. Reg. 3388).

This proposed regulation is duplicative, unnecessary and punitive to an industry that generates more than 1.2 million jobs and provides approximately \$3 trillion in added value to America's gross domestic product (GDP).

We greatly appreciate the comment period extension EPA granted earlier this year, which was necessary to allow stakeholders an opportunity for thoughtful review and comment on this complex and important issue.

Today, we reiterate several troubling issues already raised throughout the rulemaking process. The fact remains that EPA's rule seeks to impose excessive and duplicative financial assurance obligations on the hardrock mining and mineral processing (HRM) industry, which will lead to needlessly damaging economic consequences for the industry without yielding even nominal environmental benefits.

Moreover, EPA's imprudent proposal sets a bad precedent for other industry sectors identified by the agency as targets for future CERCLA financial responsibility rules, including chemical manufacturing, oil and gas, and electric utilities.

As it stands, the EPA's proposed rule will produce a duplicative layer of financial responsibility regulations on top of the financial obligations already mandated by existing state and federal regulations. We do not believe that EPA's assessment of the HRM industry appropriately accounted for the comprehensive federal and state programs and associated financial assurance safeguards already in place. These programs ensure that all phases of mining, reclamation, closure and post-closure are designed and operated to provide protection against the very same risks EPA seeks to address in the rule. If EPA finalizes this rule as proposed, the agency will

usurp states' regulatory purview and needlessly duplicate stringent state and federal requirements.

EPA's Regulatory Impact Analysis estimates that this rule will impose \$7.1 billion in new financial responsibility obligations on the HRM industry. *See* 82 Fed. Reg. at 3392. According to EPA's data, the proposed rule will require HRM facilities to incur \$171 million per year in new financial responsibility costs, while only saving the government \$15.5 million per year. Id. at 3440.

Analyses conducted by affected industries include more comprehensive considerations and assumptions based on knowledge of industry operations. Such analyses estimate the cost of this new federal program to be significantly higher than EPA's already-crippling projections.

The high costs of compliance with the rule will further discourage domestic mineral production and stymie future investment and development opportunities. In turn, this regulation will increase our nation's import reliance on metals and minerals from foreign countries—putting the United States domestic manufacturing, energy, and national security sectors at a major competitive disadvantage. This rule will also have substantial adverse impacts on local economies that depend on high-paying, living-wage HRM industry jobs to support families and generate sufficient tax revenue for local and state governments.

We understand that EPA is currently under a court order to issue a notice of final action by Dec. 1, 2017. As such, we strongly urge you to review and carefully consider industry and Congressional input. It is our hope that you will conclude, as we have, that this rulemaking is duplicative and unnecessary on account of existent, robust financial responsibility requirements already in place at the state and federal level. The current rulemaking is unnecessary. The agency should choose the "no action" alternative and allow the current requirements already in place to continue.

Thank you for your consideration, and please do not hesitate to contact our offices if we can be of further assistance in these matters.

Sincerely,

From: Chuck Cunningham [chuckc@visi.net]

Sent: 7/26/2017 2:54:14 PM

To: Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Gunasekara, Mandy

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: FW: Mid-Level Policy Position Candidate

Attachments: Personal Matters / Ex. 6 Resume.pdf

Importance: High

Is there an opportunity for this guy to help at EPA?

From: Joseph Ryan

Sent: Wednesday, July 19, 2017 4:37 PM **To:** Chuck Cunningham <<u>chuckc@visi.net</u>>

Subject: FW: Mid-Level Policy Position Candidate

Chuck,

This young man comes well recommended from Jonathan Baron. He is looking for possible work at one of the federal agencies. From my conversation with him, I think he might be best suited to EPA or DOE. But he is also interested in Interior. Is this a resume you could pass to your contacts at the WH office of personnel?

Here is how Mr. Baron described him:

- 1. Diligent and productive, with the strength of being able to execute significant volumes of research-oriented policy work;
- 2. Subject to an interview, center to center-right. As suggested by the Chamber experience, likely offers good balance to the team; and
- 3. Best situated in a research/writing role at the intersection of policy, politics, and communications generating issue-focused content in support of lobbying, third-party engagement, SAFE leadership, etc.

In my judgment, would be a strong hire critical to establishing a team charged with increasing the volume and relevance of SAFE's content output.

Thanks,

From: Jonathan Baron [mailto:jmb@baronpa.com]

Sent: Tuesday, July 11, 2017 1:37 PM

To: Joseph Ryan < JRyan@secureenergy.org>

Cc: Robbie Diamond < RDiamond@secureenergy.org >; Jonathan Fluger < fluger@baronpa.com >

Subject: Mid-Level Policy Position Candidate

Joe –

Per your request, please see attached.

Please let me know if you have any questions.

Regards, JMB

Jonathan M. Baron Baron Public Affairs, LLC 901 15th Street, NW Suite 625 Washington, DC 20005

(202) 822-3752 Phone imb@baronpa.com www.baronpa.com

Personal Information / Ex. 6

SUMMARY OF QUALIFICATIONS

Over six years of professional work experience in public policy and advocacy, with in-depth knowledge of energy and environmental issues. Excellent writing and research skills with emphasis on translating complex subjects and language into concise and accessible briefs, presentations, and reports. Strong communication skills with familiarity in managing social media and online content. Exemplary work ethic and attention to detail; adept at working under pressure.

PROFESSIONAL EXPERIENCE

U.S. Chamber of Commerce, Washington, DC

July 2013 - Present

Manager, Research and Communications – Environment, Technology & Regulatory Affairs Division

- Works on legislative issues and federal regulations. Specific policy issues include: the Clean Power Plan, definition of Waters of the United States, ozone National Ambient Air Quality Standards, the Endangered Species Act, regulatory reform, permit streamlining reform, net neutrality, spectrum, and other telecom issues.
- Develops and manages production of division materials including policy one pagers, issue brochures, and reports.
- Assists policy counsels with drafting, editing, and proofreading on a variety of documents and projects including Hill and federal agency letters, public comments, presentations, and other materials.
- Manages external communications including the division Twitter handle, updating and creating content for webpages on uschamber.com, filing public comments, and drafting and sending issue alerts on energy, environment, telecommunications, and regulatory affairs issues to Chamber member companies and associations.
- Handles internal communications and approval process between Chamber policy divisions and executives for congressional letters, testimony, comments to federal agencies, and coalition

Baron Public Affairs, Washington, DC

October 2011 – April 2013

Research Assistant

- Wrote and edited political reports for Baron PA, a Republican public affairs firm, as well as creating summaries consisting of research from the media, Congress, polling information, and published statistics.
- Handled work on domestic energy issues including fracking regulations for natural gas, energy efficiency standards for commercial and federal buildings, distributed generation, and state and federal tax credits and subsidies for renewable energy sources.
- Drafted press releases, letters of correspondence, and event agendas.
- Participated in telephone and in-person meetings with Members of Congress, corporate representatives, trade officials, and policy experts to discuss advocacy strategies.

Office of Senator Sam Brownback (R-KS), Washington, DC Office Assistant

August 2010 – January 2011

Aided legislative assistants with independent research on policy issues such as NAFTA and the

- free trade agreements in South Korea, Colombia and Panama. Drafted and edited letters of correspondence to constituents on public policy issues.
- Attended congressional hearings and wrote summaries and briefs for staff members.

EDUCATION

American University, School of Public Affairs, Washington DC

Bachelor of Arts, Double Major: Political Science and Interdisciplinary Studies, 2010, Cum Laude

From: Kenneth Stein [kstein@alec.org]

Sent: 7/13/2017 4:03:23 PM

To: Kenneth Stein [kstein@alec.org]
Subject: ALEC Annual Meeting logistics

Thank you for agreeing to join us as a speaker for our Annual Meeting on Wednesday July 19th. This e-mail is to be sure that you have my contact information, all listed below. Please do not hesitate to call my cell at 202-997-4858 should you encounter any logistical problems on your way to, or during, the event.

As a reminder, the meeting will be taking place at the Hyatt Regency Denver located at <u>650 15th Street Denver, CO 80202</u>. The Energy Environment and Agriculture Task Force will be meeting in Centennial Ballroom A located on the third floor from 8:00-10:20AM. When you arrive, please check in at Registration located in the Mineral Foyer, also on the third floor, where you will receive a speaker's badge which will allow you into the meeting area.

Each of your speaking times have been communicated to you individually, however if you are unsure about your speaking time, please reply back so that I can confirm with you.

There will be a laptop and projector available should you have any slides that you wish to use in your presentation. You may bring your slides on your own flash drive, or if you would prefer I set them up, please e-mail your slides to me if you have not already done so.

Please let me know if you have any questions, and looking forward to seeing each of you in Denver.

Kenny Stein

Director, Energy, Environment and Agriculture Task Force

Office: 571-482-5008 Cell: 202-997-4858 kstein@alec.org

2900 Crystal Drive, Suite 600 Arlington, VA 22202



Upcoming Meetings:

2017 Annual Meeting – July 19-21, 2017 – Denver, Colorado 2017 States and Nation Policy Summit – December 6-8, 2017 – Nashville, Tennessee 2018 Spring Task Force Summit – April 27, 2018 – Grand Rapids, Michigan

The American Legislative Exchange Council is a 501(c)3 nonprofit organization and is the largest nonpartisan, voluntary membership organization of state legislators in the United States dedicated to the principles of limited government, free markets and federalism. The Council is governed by state legislators who comprise the National Board of Legislators and is advised by the Private Enterprise Advisory Council, a group of private, foundation and think tank members.

Website | Facebook | Twitter | Blog

From: GfK Custom Research [chenderson@e1.surveys2.com]

Sent: 7/11/2017 11:02:12 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Survey about Trust in the Media

Greetings,

GfK, an independent market research company, is conducting a **short** survey about views of the media. **As a leader and dedicated public servant in Washington DC, we believe your perspective would be tremendously valuable to our understanding of this topic.**

Please rest assured that GfK ensures your confidentiality and anonymity – no one will be able to tie the opinions voiced in the survey back to you or the office for which you work

We greatly appreciate and value your time and in exchange for your participation, GfK will donate \$20 to your choice of three charities: The Wounded Warrior Project, The American Cancer Society, or The American Heart Association. We would also be happy to share the results of the study with you later this year.

If clicking on the link does not work, cut and paste the link into your browser. We look forward to hearing from you! Thank you in advance for your participation!

https://www.surveys.com/start.aspx?SurveyName=USC507516&ID=199580&ENC=J13FVuqGGKFjr6b9Wy72sdmCFW8

Should you have content or technical questions, please contact: chenderson@e.surveys.com.

To unsubscribe from ask GfK, please click here:

https://unsubscribe.surveys.com/unsubscribe.aspx?r=199580&m=gunasekara.mandy@epa.gov&t=USC507516

Thank you in advance for participating. We look forward to hearing from you.

For our in private policy please click on the link:

http://www.gfk.com/us/Pages/Research-Participant-Privacy-Policy.aspx

To reach us by mail: Reach us by mail at: GfK Panel Services 120 Eagle Rock Ave Ste. 200

Dic. 200

East Hanover, NJ 07936-9848

Case: 17-71692, 07/25/2017, ID: 10521149, DktEntry: 7, Page 1 of 1

UNITED STATES COURT OF APPEALS



FOR THE NINTH CIRCUIT

JUL 25 2017

MOLLY C. DWYER, CLERK U.S. COURT OF APPEALS

In re: UNITED STATES OF AMERICA; et al.

UNITED STATES OF AMERICA; et al.,

Petitioners,

V.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON, EUGENE,

Respondent,

KELSEY CASCADIA ROSE JULIANA; et al.,

Real Parties in Interest.

No. 17-71692

D.C. No. 6:15-cv-01517-TC-AA District of Oregon, Eugene

ORDER

Before: GOODWIN, KOZINSKI, and BERZON, Circuit Judges.

The Court stays district court proceedings, temporarily, pending further order from this court. *See* Ninth Circuit Gen. Ord. 6.8(a).

The petition for a writ of mandamus and all other pending motions will be addressed by separate order.

From: Grundler, Christopher [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D3BE58C2CC8545D88CF74F3896D4460F-GRUNDLER, CHRISTOPHER]

Sent: 7/24/2017 10:17:01 PM

To: Rodolfo Lacy Tamayo [rodolfo.lacy@semarnat.gob.mx]

CC: Nishida, Jane [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=65e465e683c54e1b825f1bad32dcb099-Nishida, Jane]; Gunasekara, Mandy

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dunham, Sarah

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=a9444681441e4521ad92ae7d42919223-SDUNHAM]; Alejandra Espinosa

Mijares [alejandra.espinosa@semarnat.gob.mx]

Subject: Re: Update On EPA's Vehicle Emissions Regulations/Standards

Ok. Thx for letting me know

Sent from my iPhone

On Jul 24, 2017, at 4:38 PM, Rodolfo Lacy Tamayo < rodolfo.lacy@semarnat.gob.mx > wrote:

Thank you very mucho Jane, Rodolfo LACY

Enviado desde mi iPhone

El 24/07/2017, a las 15:13, Nishida, Jane < Nishida. Jane@epa.gov > escribió:

Lacy and Alejandra:

U.S. Environmental Protection Agency, Office of International and Tribal Affairs (OITA) - Ronald Reagan Bldg., 3rd floor.

1300 Pennsylvania Ave., NW, Washington, D.C. 20004

The meeting will be held in the OITA's Executive Conference Room, #31204. When you arrive at the Ronald Reagan Bldg., please ask the guards to show you to EPA's Guard Desk and you will need to show your ID. Once you arrive at EPA's Guard Desk, please call me, Lakita Stewart, on 202-564-6458, Pascale Lee on 202-564-1340 or our receptionist desk, Juanita Workeman on 202-564-6600 and one of us will come down to escort you to the Executive.

<meeting.ics>

From: Crystal Coon [crystal@glenncoffee.com]

6/30/2017 7:16:34 PM Sent:

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Tyler Norvell [tyler@glenncoffee.com]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative

Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: Re: biomass meeting

Hi Mandy,

Thanks so much for the response. If there is a time after you return we're happy to be flexible. Thanks so much!

Crystal

On Jun 30, 2017, at 2:13 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Hi Crystal,

Great to hear from you. I'm happy to touch base next week. Alex, can you please find a time?

The week of the 17th I am going to be out for work travel, so I won't be available for an in person meeting. Is there another time that would work?

Best. Mandy

----Original Message----

From: Crystal Coon [mailto:crystal@glenncoffee.com] Sent: Thursday, June 29, 2017 5:00 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Tyler_Norvell <tyler@glenncoffee.com>; Dominguez, Alexander <dominguez.alexander@epa.gov>

Subject: biomass meeting

Hi Mandy,

I hope you are well! As we mentioned last week in our meeting, we work with the National Alliance of Forest Owners. Would there be a time next week where you and I could have a quick call on a couple of items related to biomass?

I'd also like to see what the possibility is of a meeting the week of July 17 with NAFO and the American Forest & Paper Association. The associations wanted to provide an update on several research items related to the Threshold Rule. AF&PA works closely with NAFO on this issue.

Thanks so much for your consideration.

Crystal L. Coon Crystal@glenncoffee.com 405-410-7668

Crystal L. Coon Crystal@glenncoffee.com 405-410-7668

From: Chuck Cunningham [chuckc@visi.net]

Sent: 7/19/2017 4:33:56 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: E connect

Very good seeing you at ALEC this morning. Great presentation. Please let me know if SAFE can be helpful to you and the EPA. Have a safe trip back to DC.

----- Original message -----

From: "Gunasekara, Mandy" < Gunasekara. Mandy@epa.gov>

Date: 5/25/17 1:40 PM (GMT-07:00)

To: Chuck Cunningham <chuckc@visi.net> Cc: "Bolen, Brittany" <bolen.brittany@epa.gov>

Subject: E connect

Hi Brittany,

I'm connecting you with Chuck Cunningham (CC'd) who previously met with Samantha re: Cafe/ GHG standards and in support of the one national program. He is simply looking to follow up on a few items, which I think you could be of most help. I'm happy to help as well.

Best, Mandy

Sent from my iPhone

--

BEGIN-ANTISPAM-VOTING-LINKS

Teach CanIt if this mail (ID 0gToHEsqU) is spam:

 $Spam: \underline{https://antispam.roaringpenguin.com/canit/b.php?c=s\&i=0gToHEsqU\&m=827580253329\&rlm=secureenergy-org\&t=20170525$

Fraud/Phish: https://antispam.roaringpenguin.com/canit/b.php?c=p&i=0gToHEsqU&m=827580253329&rlm=secureenergy-org&t=20170525

Not spam: https://antispam.roaringpenguin.com/canit/b.php?c=n&i=0gToHEsqU&m=827580253329&rlm=secureenergy-org&t=20170525

Forget vote: https://antispam.roaringpenguin.com/canit/b.php?c=f&i=0gToHEsqU&m=827580253329&rlm=secureenergy-org&t=20170525

200 CO TO TO TO TO TO TO THE TO THE TO THE TO THE TO THE TO THE TO TO TO TO TO TO THE TO THE

END-ANTISPAM-VOTING-LINKS

From: Kelli Ripp [ripp@invariantgr.com]

Sent: 7/6/2017 1:01:14 PM

To: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Meeting Request with Administrator Pruitt

Thanks so much to you both!

For attendees, they are listed below.

Kevin Zugibe, President and CEO, Hudson Technologies Brian Coleman, COO and Director, Hudson Technologies Ben Klein, Invariant Kelli Ripp, Invariant

From: Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]

Sent: Thursday, July 6, 2017 8:00 AM **To:** Kelli Ripp <ripp@invariantgr.com>

Cc: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov> **Subject:** RE: Meeting Request with Administrator Pruitt

Morning Kelli,

Mandy will no longer be traveling and will be able to attend the meeting we have set for Thursday, July 20th at 2:00. Looking forward to it.

Alex

From: Kelli Ripp [mailto:ripp@invariantgr.com]
Sent: Wednesday, July 5, 2017 10:50 AM

To: Dominguez, Alexander < <u>dominguez.alexander@epa.gov</u>> **Subject:** RE: Meeting Request with Administrator Pruitt

Great, thanks, Alex!

From: Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]

Sent: Monday, July 3, 2017 2:13 PM **To:** Kelli Ripp < ripp@invariantgr.com >

Subject: RE: Meeting Request with Administrator Pruitt

Hey Kelly,

Good news – it's looking like Mandy's travel is going to be canceled in which case she will be here for the meeting on the 20th. Still tbd but I should have a firm answer for you on Wednesday.

From: Kelli Ripp [mailto:ripp@invariantgr.com]

Sent: Friday, June 30, 2017 4:00 PM

To: Dominguez, Alexander < dominguez.alexander@epa.gov Subject: Re: Meeting Request with Administrator Pruitt

Thanks. Alex, much appreciated!

Get Outlook for Android

```
From: Dominguez, Alexander <dominguez.alexander@epa.gov>
Sent: Friday, June 30, 2017 3:58:26 PM
To: Kelli Ripp
Subject: Re: Meeting Request with Administrator Pruitt
Reached out to a few folks and will touch base as soon as I hear back.
Sent from my iPhone
> On Jun 30, 2017, at 2:51 PM, Kelli Ripp < ripp@invariantgr.com > wrote:
> The Montreal Protocol phase outs and allocations are the main topic, but SNAP will also likely come up.
> Thanks,
> Kelli
> ----Original Message-----
> From: Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]
> Sent: Friday, June 30, 2017 2:47 PM
> To: Kelli Ripp < ripp@invariantgr.com>
> Subject: RE: Meeting Request with Administrator Pruitt
> Several of the politicals are going on the trip but let me check with Mandy and get back to you. Do you know what the general
topics of the meeting are? SNAP?
> -----Original Message-----
> From: Kelli Ripp [mailto:ripp@invariantgr.com]
> Sent: Friday, June 30, 2017 2:36 PM
> To: Dominguez, Alexander < dominguez.alexander@epa.gov>
> Subject: RE: Meeting Request with Administrator Pruitt
> Hi Alex, is there anyone else in the office we could meet with on the 20th? If not, I will work on alternative dates.
> Thanks.
> Kelli
> ----Original Message----
> From: Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]
> Sent: Friday, June 30, 2017 2:29 PM
> To: Kelli Ripp <ripp@invariantgr.com>
> Subject: RE: Meeting Request with Administrator Pruitt
> Hey Kelli,
> I apologize but Mandy just found out she is going to be on work-related travel the week of the 16th so we are going to have to
reschedule the July 20th meeting. Is there another week/dates that work on your end?
> Best,
> Alex
> Alex Dominguez
```

> Policy Analyst to the Senior Advisors to the Administrator for Air and Water U.S. Environmental Protection Agency

```
> Work: 202-564-3164|Cell: 202-578-5985
> ----Original Message----
> From: Kelli Ripp [mailto:ripp@invariantgr.com]
> Sent: Monday, June 12, 2017 9:49 AM
> To: Dominguez, Alexander < dominguez.alexander@epa.gov>
> Subject: RE: Meeting Request with Administrator Pruitt
> Hi Alex, thanks for following up. Thursday, July 20 at 2:00 works great. There will be no more than 5 in our group.
> Let me know if you need names/ any other information for everyone in the group in advance of the meeting, happy to send that over.
> Thanks!
> Kelli
> ----Original Message----
> From: Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]
> Sent: Monday, June 12, 2017 9:30 AM
> To: Kelli Ripp <ripp@invariantgr.com>
> Subject: RE: Meeting Request with Administrator Pruitt
> Morning Kelli,
> Does Thursday, July 20 at 2:00 work for you? Additionally, roughly how many attendees will be with your group? I want to make
sure I reserve a large enough room.
> Best,
> Alex
> Alex Dominguez
> Policy Analyst to the Senior Advisor to the Administrator for Air and Radiation U.S. Environmental Protection Agency
> 1200 Pennsylvania Ave., N.W.
> Washington, D.C. 20460
> ----Original Message----
> From: Kelli Ripp [mailto:ripp@invariantgr.com]
> Sent: Thursday, June 8, 2017 11:32 AM
> To: Dominguez, Alexander < dominguez.alexander@epa.gov>
> Cc: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>
> Subject: RE: Meeting Request with Administrator Pruitt
> Hi Alex, following up on this, could we schedule a meeting with the Hudson representatives on either Thursday, July 20 or Friday,
July 21?
> Apologies for pushing the dates to July, but looking forward to confirming a time to sit down with you all.
> Thanks again!
> Kelli
> Kelli Ripp
> Invariant
> 202.742.1925 O
> 309.678.2434 M
> ripp@invariantgr.com
> (Heather Podesta + Partners is now Invariant)
>
> ----Original Message-----
```

> From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]
> Sent: Monday, June 5, 2017 2:57 PM
> To: Kelli Ripp ripp@invariantgr.com
> Cc: Dominguez, Alexander dominguez.alexander@epa.gov
> Subject: Meeting Request with Administrator Pruitt
>
> Hi Kelli,
>
> Sydney Hupp forwarded me your meeting request as the Administrator is unavailable. I'm his Senior Policy Advisor for the Office of Air and Radiation and would be happy to set up a meeting to discuss refrigerant issues. I have CC'd Alex Dominguez who can help set up the logistics. Later in June would work best on my end. Please let me know what dates would work for you.
> Best,
> Mandy

> Sent from my iPhone

From: Toth, Michael [Michael.Toth@oag.texas.gov]

Sent: 7/11/2017 8:58:15 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Hubenak, Priscilla

[Priscilla.Hubenak@oag.texas.gov]

CC: Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]; Dominguez, Alexander

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: Follow-up

Mandy:

Following up on today's call, I've added Priscilla Hubenak from our office to connect you and continue the discussions.

Very respectfully yours,

Michael Toth Special Counsel to the First Assistant Attorney General 209 W. 14th Street (Mail Code 001) 8th Floor Austin, TX 78701 (512) 936-0631



From: Amy Kjose Anderson [aanderson@alec.org]

Sent: 7/18/2017 1:33:43 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: ALEC Annual Meeting logistics

Ms. Gunasekara,

We are looking forward to having you speak at the ALEC conference this week. Kenny Stein is no longer with ALEC as of last Friday, so I am stepping in to run our Energy, Environment and Agriculture meetings at the ALEC Annual Meeting this week. I have included my contact information below. Don't hesitate to reach out if you need anything. As a reminder, we will be in room Centenniel A on Level 3 of the host hotel, the Hyatt Regency Denver, at 8am this Wednesday, July 19. We're looking forward to having you!

All my best, Amy Anderson Cell: 202-870-1110

Email: aanderson@alec.org

Amy Kjose Anderson Director, Civil Justice American Legislative Exchange Council (202) 870-1110

From: Kenneth Stein [mailto:kstein@alec.org]
Sent: Thursday, July 13, 2017 12:03 PM

To: Kenneth Stein

Subject: [EXTERNAL] ALEC Annual Meeting logistics

Thank you for agreeing to join us as a speaker for our Annual Meeting on Wednesday July 19th. This e-mail is to be sure that you have my contact information, all listed below. Please do not hesitate to call my cell at 202-997-4858 should you encounter any logistical problems on your way to, or during, the event.

As a reminder, the meeting will be taking place at the Hyatt Regency Denver located at <u>650 15th Street Denver, CO 80202</u>. The Energy Environment and Agriculture Task Force will be meeting in Centennial Ballroom A located on the third floor from 8:00-10:20AM. When you arrive, please check in at Registration located in the Mineral Foyer, also on the third floor, where you will receive a speaker's badge which will allow you into the meeting area.

Each of your speaking times have been communicated to you individually, however if you are unsure about your speaking time, please reply back so that I can confirm with you.

There will be a laptop and projector available should you have any slides that you wish to use in your presentation. You may bring your slides on your own flash drive, or if you would prefer I set them up, please e-mail your slides to me if you have not already done so.

Please let me know if you have any questions, and looking forward to seeing each of you in Denver.

Kenny Stein

Director, Energy, Environment and Agriculture Task Force

Office: 571-482-5008 Cell: 202-997-4858 kstein@alec.org

2900 Crystal Drive, Suite 600 Arlington, VA 22202



Upcoming Meetings:

2017 Annual Meeting – July 19-21, 2017 – Denver, Colorado 2017 States and Nation Policy Summit – December 6-8, 2017 – Nashville, Tennessee 2018 Spring Task Force Summit – April 27, 2018 – Grand Rapids, Michigan

The American Legislative Exchange Council is a 501(c)3 nonprofit organization and is the largest nonpartisan, voluntary membership organization of state legislators in the United States dedicated to the principles of limited government, free markets and federalism. The Council is governed by state legislators who comprise the National Board of Legislators and is advised by the Private Enterprise Advisory Council, a group of private, foundation and think tank members.

Website | Facebook | Twitter | Blog

From: Dallas Baker [dallas.baker@neel-schaffer.com]

Sent: 7/3/2017 8:22:15 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: FW: A&WMA Annual Conference & Coffee
Attachments: SEER- Webinar proposal - Scott M. Turner.pdf

Ah, I forgot about your epa.gov address. Message below.....

From: Dallas Baker

Sent: Monday, July 03, 2017 1:53 PM

To Personal Email / Ex. 6

Subject: FW: A&WMA Annual Conference & Coffee

Mandy,

Sorry I missed you in Pittsburgh back in June. I understood work took you out of the country? Oh the stories I bet you could tell. But the panel session went well – your co-panelists covered nicely. We appreciate your willingness to be a part of our program.

By chance, would you accept an invitation to play substitute to a cancellation in a webinar panel coming up July 25? Tim Profeta developed a conflict and we're trying to get his replacement to the attached Webinar - jointly produced with the ABA and A&WMA. Interested? I think our two memberships would really appreciate your perspective.

Dallas Baker, P.E., BCEE (Past President, A&WMA)

Director of Environmental Services

Neel-Schaffer, Inc.

1022 Highland Colony Parkway, Suite 202 Ridgeland, MS 39157

Office: 601.499.0653 Cell: 601.953.7146 Receptionist: 601.898.3358

Email: dallas.baker@neel-schaffer.com Website: www.neel-schaffer.com

From: Dallas Baker

Sent: Tuesday, May 16, 2017 2:51 PM

To: 'Gunasekara, Mandy' < Gunasekara. Mandy@epa.gov>

Subject: RE: A&WMA Annual Conference & Coffee

It's a plan! Talk in PA.

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Tuesday, May 16, 2017 2:35 PM

To: Dallas Baker < dallas.baker@neel-schaffer.com > Subject: RE: A&WMA Annual Conference & Coffee

I have yet to get my flight details, but let's plan to touch base immediately after the panel discussion. We can figure out where to meet once we get there.

I'm also just noticing that you are at a Neel Schaffer address – congrats on your new position as well!

Look forward to catching up soon, Mandy

From: Dallas Baker [mailto:dallas.baker@neel-schaffer.com]

Sent: Tuesday, May 16, 2017 12:27 PM

To: Gunasekara, Mandy <<u>Gunasekara.Mandy@epa.gov</u>>
Subject: FW: A&WMA Annual Conference & Coffee

Mandy: great to hear from you. Let's connect somehow in Pittsburgh. So much is going on. You're likely getting these handed to you, but just in case you're not....

I was a proud member of AAPCA, and am sure you saw this recent letter my friend Clint wrote,

FYI: http://www.csg.org/aapca_site/documents/AAPCA-EPARegulatoryReform-DocketIDEPA-HQ-OA-2017-0190-5-15-17.pdf

And a similar one written by ECOS: https://www.ecos.org/wp-content/uploads/2017/05/ECOS-Comments-on-EO-13777.pdf

Dallas Baker, P.E., BCEE

Director of Environmental Services

Neel-Schaffer, Inc. 1022 Highland Colony Parkway, Suite 202 Ridgeland, MS 39157 Office: 601.499.0653 Cell: 601.953.7146 Receptionist: 601.898.3358

Email: dallas.baker@neel-schaffer.com Website: www.neel-schaffer.com

From: Mandy Gunasekara [mailto:mandy.gunasekara@gmail.com]

Sent: Tuesday, May 16, 2017 11:21 AM

To: Dallas Baker < <u>dallas.baker@neel-schaffer.com</u>> **Cc:** Bonnie Morgan < <u>bonnie.morgan@neel-schaffer.com</u>>

Subject: Re: A&WMA Annual Conference & Coffee

Dallas- great to hear from you! Let's definitely plan for coffee. Can you shoot me an email to my official account: Gunasekara.mandy@epa.gov

Bonnie is great!

Sent from my iPhone

On May 12, 2017, at 10:36 AM, Dallas Baker < dallas.baker@neel-schaffer.com > wrote:

Mandy,

You may recall Alice Perry and I visiting you while accepting the Senators' invitation to testify in the summer of 2015. Quite the experience, and my how times have changed since then!

Congratulations on your new appointment with EPA. Our mutual friend Bonnie Morgan discretely gave me your gmail address; hope you don't mind. I wanted to reach out and see if you and I could have a few minutes together in Pittsburgh Thursday, June 8. I understand you are invited to speak at the morning session titled, "Clean Power Plan (CPP) Litigation Updates and Road Ahead." That should be a standing room only! If you're making the trip, perhaps afterwards we could grab coffee? As a former Air Director from Mississippi, and a Past President of A&WMA, my perspectives of implementing environmental policy at the state level, and how states vary in advocacy, would perhaps shed light into the amazing transformation the Administration is orchestrating. I commend the work, but have some cautions towards unintended consequences. I'm very impressed with Administrator Pruitt's first weeks in D.C. and would like to help in any way. (So does Bonnie, by the way!)

Coffee in PA?

.....

Dallas Baker, P.E., BCEE

Director of Environmental Services

Neel-Schaffer, Inc. 1022 Highland Colony Parkway, Suite 202 Ridgeland, MS 39157 Office: 601.499.0653 Cell: 601.953.7146 Receptionist: 601.898.3358

Email: dallas.baker@neel-schaffer.com Website: www.neel-schaffer.com

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DISTANCE LEARNING WEBINAR PROPOSAL FORM

Thank you for your interest in an ABA Section of Environment, Energy and Resources Distance **Learning webinar.** Please complete this proposal form and submit to Amy Gelbman (contact information is below). Along with this proposal please include a brief summary, learning objectives, proposed speakers, and

target audience. Any additional supporting materials are always helpful as well. Please note, course materials are an essential part of the webinar to receive CLE credit, including a PowerPoint.

Proposal submitted by: Scott M. Turner
Title: Partner and Energy & Environment Practice Group Leader
Firm/Organization: Nixon Peabody LLP
City/State: Rochester, NY
Business Phone 585-263-1612 E-Mail: sturner@nixonpeabody.com
A. CONTENT
1. Working title: The Trump Administration and Greenhouse Gas Policy and Regulation
2. Proposed webinar date(s) Late July/Early August 2017
3. Default time is 1-2:30pm ET unless indicated otherwise.
4. Experience level: Beginner □ Intermediate □ Advanced □
5. Describe target audience. As a webinar jointly sponsored by the ABA SEER Air Quality Committee and the Air & Waste Management Association, the audience will be environmental professionals in both organizations, but also members and stakeholders within government, industry, consulting and NGO advocacy. Backgrounds could include legal, engineering, science, environmental policy, and business.

6. Briefly describe your proposed webinar. This will appear on the registration page.

The Trump Administration's approach to greenhouse gas regulation represents a sea of change from the prior administration's broad initiatives. This webinar, jointly sponsored by the American Bar Association and the Air & Waste Management Association, will discuss the latest developments coming from the Administration regarding executive orders, rulemakings, Congressional Review Act repeals, policy, and litigation regarding greenhouse gas policy and regulation.

- 7. Please provide 3 to 5 learning objectives (bullet points) that the attendees are expected to learn. The objectives are what the learners will be able to accomplish by the end of the program. Well-constructed course objectives include:
 - Performance what a learner is expected to be able to do
 - Condition context or area of law
 - Criterion how well the learner must perform in order to be considered acceptable

Use verbs that describe the action you want the learner to take, according to the level of the program per Bloom's Taxonomy (see pg. 3).

- Beginner = Knowledge, Comprehension
- Intermediate = Application, Analysis
- Advanced = Synthesis, Evaluation

For example, at the conclusion of this program you will be able to "write, describe, identify, state, etc." Stay away from words open to many interpretations such as "know, understand, appreciate, grasp the significance of, believe, internalize, etc."

Here are two examples of learning objectives:

- 1. When faced with an ethical dilemma of taking on a new case adverse to a former client's, you'll be able to identify whether it is 'substantially related' enough to disqualify you from the case in accordance with MRPC 1.9.
- 2. At the end of this program you should be able to:
 - a. Differentiate between laws and ethics
 - b. Identify major national laws that affect the practice of information security
 - c. Explain the role of culture as it applies to ethics in information security

Following are some verb suggestions from Bloom's taxonomy based on the type of action you expect the learner to be able to do:

Bloom's Taxonomy Action Verbs

Definitions	Knowledge	Comprehension	Application	Analysis	Synthesis	Evaluation
Bloom's Definition	Remember previously learned information.	Demonstrate an understanding of the facts.	Apply knowledge to actual situations.	Break down objects or ideas into simpler parts and find evidence to support generalizations.	Compile component ideas into a new whole or propose alternative solutions.	Make and defend judgments based on internal evidence or external criteria.
Verbs	Arrange Define Describe Duplicate Identify Label List Match Memorize Name Order Outline Recognize Relate Repeat Reproduce Select State	Classify Convert Defend Describe Discuss Distinguish Estimate Explain Express Extend Generalized Give example(s) Identify Indicate Infer Locate Paraphrase Predict Recognize Rewrite Review Select Summarize Translate	Apply Change Choose Compute Demonstrate Discover Dramatize Employ Illustrate Interpret Manipulate Modify Operate Practice Predict Prepare Produce Relate Schedule Show Sketch Soive Write	Analyze Appraise Breakdown Calculate Compare Compare Contrast Diagram Differentiate Discriminate Distinguish Examine Experiment Identify Illustrate Infer Model Outline Point out Question Relate Separate Subdivide Test	Arrange Assemble Categorize Collect Combine Comply Compose Construct Create Design Develop Devise Explain Formulate Generate Plan Prepare Rearrange Reconstruct Relate Revise Rewrite Set up Summarize Synthesize Tell Write	Appraise Argue Assess Attach Choose Compare Conclude Contrast Defend Describe Discriminate Estimate Evaluate Explain Judge Justify Interpret Relate Predict Rate Select Summarize Support Value

- 3 to 5 Learning Objectives (bullet points): These will be used for email promotions, MCLE applications, and in the powerpoint template.
- 1. At the end of the program you will be able to:
- a. Describe the various Administration initiatives underway to roll back Obama-era greenhouse gas policies and rules.
- b. Summarize the status of the current greenhouse gas issues in litigation.
- c. Explain the implications of potential greenhouse gas policy changes as it affects electric generation and oil & gas production.

(Either all ethics or no ethics, no partial ethics credit can be given for a session	ion)			
No ethical components.				
9. MCLE: Explain how the topic may qualify for MCLE credit and how m	uch is being applied for			
B. SPEAKERS (Please note that speaker diversity is strongly encouraged. There must be at standing on the panel or moderating.)	least <u>one</u> attorney in good			
1. Proposed Moderator				
NAME: Megan H. Berge	Licensed attorney in good standing:			
TITLE: Partner	Yes No N/A			
FIRM/ORGANIZATION: Baker Botts LLP				
CITY/STATE: Washington, D.C.				
PHONE: 202-639-1308 E-MAIL: megan.berge@b	pakerbotts.com			
Gender: Male□ Female□ Identifies as LGBT: Yes□ No□ Ethnicity: African-American□ Asian□ Hispanic□ Native American□	•			
2. Proposed Speakers				
NAME: Jared Snyder	Licensed attorney in good standing:			
TITLE: Deputy Commissioner, Air Resources and Climate Change	Yes No N/A			
FIRM/ORGANIZATION: New York State Department of Environment	al Conservation			
CITY/STATE: Albany, New York				
PHONE: 518-402-8448 E-MAIL: jjsnyder@gw.dec	.state.ny.us			
Gender: Male□ Female□ Identifies as LGBT: Yes□ No□ Ethnicity: African-American□ Asian□ Hispanic□ Native American□	Has a disability: Yes□ No□ □ Caucasian□ Other			
NAME: Tim Profeta	Licensed attorney in good standing:			
TITLE: Director	Yes No N/A			
FIRM/ORGANIZATION: Nicholas Institute for Environmental Policy Solutions				

CITY/STATE: Durham, N.C.						
PHONE: 919-613-8709 E-MAII	ːtim.profeta@duke.edu					
Gender: Male□ Female□ Identifies as LGBT: Ethnicity: African-American□ Asian□ Hispanic□	Yes□ No□ Has a disability: Yes□ No□ Native American□ Caucasian□ Other					
NAME: Dallas Baker, P.E., BCEE	Licensed attorney in good standing:					
TITLE: Director of Environmental Services	Yes No N/A					
FIRM/ORGANIZATION: Neel-Schaffer, Inc.						
CITY/STATE: Jackson, MS						
PHONE: 601-499-0653 E-MAIL:	dallas.baker@neel-schaffer.com					
Gender: Male□ Female□ Identifies as LGBT: Ethnicity: African-American□ Asian□ Hispanic□	, and the second se					
3. Please indicate of which ABA Sections, Divisions or Forums the proposed speakers are members. Section on Environment, Energy, and Resources (SEER)						
C. Marketing Please suggest any special marketing strategy or promote media, Interest Group marketing, target audience, other Co-market with Air & Waste Management Association staff: Robin Lebovitz, Professional Development and Student Programs Manager Air & Waste Management Association One Gateway Center, Third Floor 420 Fort Duquesne Boulevard Pittsburgh, Pennsylvania 15222 USA Main Phone 412.232.3444 (x6020) Direct Phone 412.904.6020 Fax 412.232.3450 Please include any other comments helpful to support years.	sections of the ABA, etc.)					
Please submit your proposal to:						

Amy Gelbman
Associate Director, CLE Programming, Center for Professional Development
American Bar Association | 321 North Clark Street | Chicago, IL 60654
T: 312.988.5646 | F: 312.988.5368
amy.gelbman@americanbar.org

From: Eames, Frederick R. [feames@hunton.com]

Sent: 7/7/2017 6:20:43 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Lee Forsgren

Mandy – Do you happen to have Lee Forsgren's new email address over there? I want to send him a congratulatory note. He and I know each other from years ago on the Hill.

Hope all is well.



Frederick Eames

Partner feames@hunton.com p 202.778.2245 bio | vCard | blog | Linkedin

Hunton & Williams LLP 2200 Pennsylvania Avenue, NW Washington, DC 20037

hunton.com

From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 7/3/2017 2:17:56 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dominguez, Alexander

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: RE: [EXTERNAL] RE: Tier 3 Meeting

Great! Thank you Mandy and Alex

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, July 03, 2017 10:14 AM

To: Birsic, Michael J. (MPC); Dominguez, Alexander

Subject: [EXTERNAL] RE: Tier 3 Meeting

Mike,

Thank you for the outreach. Would be happy to set something up. Alex, please include Brittany and Sam on the invite. I look forward to seeing you soon.

Mandy

From: Birsic, Michael J. (MPC) [mailto:mjbirsic@marathonpetroleum.com]

Sent: Monday, July 3, 2017 10:11 AM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov >; Dominguez, Alexander < dominguez.alexander@epa.gov >

Subject: Tier 3 Meeting

Mandy and Alex,

I hope you both are doing well. On Thursday, July 13, our Fuels Manager, Fred Walas, will be in Washington D.C. I wanted to see if you would be available to meet with us on Thursday morning to discuss Tier 3 gasoline and do a 101.

Thank you in advanced for your consideration and we hope to speak to you soon.

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004

Direct: 202-442-2459 Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com

From: Dallas Baker [dallas.baker@neel-schaffer.com]

Sent: 7/18/2017 12:23:03 AM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: A&WMA Annual Conference & Coffee

No worries Mandy. You're a champ just trying for us. There will be plenty of other chances to work together for the common good.

You let me know it there is ANYTHING I can do for you. I'll still very engaged with the A&WMA, even though I rolled off being President last year. We are a strong outlet for policy thinkers.

Bonnie Morgan is also itching to help you any way. She thinks highly of you!

Warm regards,

.....

Dallas Baker, P.E., BCEE

Director of Environmental Services

Neel-Schaffer, Inc.

1022 Highland Colony Parkway, Suite 202

Ridgeland, MS 39157 Office: 601.499.0653 Cell: 601.953.7146

Receptionist: 601.898.3358

Email: <u>dallas.baker@neel-schaffer.com</u>
Website: www.neel-schaffer.com

From: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>

Sent: Monday, July 17, 2017 5:22:14 PM

To: Dallas Baker

Subject: RE: A&WMA Annual Conference & Coffee

Hi Dallas,

I hope you are well. I'm sorry for the delay. I've been trying to make this work, but don't have the capacity. I apologize for the inconvenience. Please keep me in mind for future opportunities.

Best,

Mandy

From: Dallas Baker [mailto:dallas.baker@neel-schaffer.com]

Sent: Wednesday, July 12, 2017 8:36 AM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov> **Subject:** Fwd: A&WMA Annual Conference & Coffee

Wrong email (again). Sorry. Read below.

Any luck?

.....

Dallas Baker, P.E., BCEE

Director of Environmental Services

Neel-Schaffer, Inc.

1022 Highland Colony Parkway, Suite 202

Ridgeland, MS 39157 Office: 601.499.0653 Cell: 601.953.7146

Receptionist: 601.898.3358

Email: <u>dallas.baker@neel-schaffer.com</u> Website: www.neel-schaffer.com

From: Dallas Baker

Sent: Monday, July 10, 2017 10:56:38 AM

To: Mandy Gunasekara

Subject: RE: FW: A&WMA Annual Conference & Coffee

Mandy: as an update, we are holding a planning call today at 12:00 ET. I'll inform my team that I have reached out to you and will hear back. We'd love for you to be a part of this important event with the American Bar and Air & Waste Management Association on July 25. I've done about 30 of these webinars, and they're a lot of fun (your portion would be about 20 minutes, in fact). Joe Goffman helped us out on the Clean Power Plan a couple of years ago. It's good to hear from D.C.!

Dallas Baker, P.E., BCEE

Director of Environmental Services

Neel-Schaffer, Inc.

1022 Highland Colony Parkway, Suite 202 Ridgeland, MS 39157 Office: 601.499.0653 Cell: 601.953.7146 Receptionist: 601.898.3358

Email: dallas.baker@neel-schaffer.com Website: www.neel-schaffer.com

From: Mandy Gunasekara [mailto:mandy.gunasekara@gmail.com]

Sent: Wednesday, July 05, 2017 3:29 PM

To: Dallas Baker < dallas.baker@neel-schaffer.com > Subject: Re: FW: A&WMA Annual Conference & Coffee

Hi Dallas,

Sorry I missed you at the Pittsburgh event but glad to hear it went well. I ended being pulled into the G7 trip, which was a great experience. I'm not sure about participating in a webinar - I believe there are special considerations on my end. Let me check on that process and I'll get back to you.

I hope you are well.

Best,

Mandy

On Mon, Jul 3, 2017 at 2:53 PM, Dallas Baker < dallas.baker@neel-schaffer.com > wrote:

Mandy,

Sorry I missed you in Pittsburgh back in June. I understood work took you out of the country? Oh the stories I bet you could tell. But the panel session went well – your co-panelists covered nicely. We appreciate your willingness to be a part of our program.

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.....

Dallas Baker, P.E., BCEE (Past President, A&WMA)

Director of Environmental Services

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Ridgeland, MS 39157 Office: 601.499.0653 Cell: 601.953.7146 Receptionist: 601.898.3358

Email: dallas.baker@neel-schaffer.com Website: www.neel-schaffer.com

From: Dallas Baker

Sent: Tuesday, May 16, 2017 2:51 PM

To: 'Gunasekara, Mandy' < <u>Gunasekara.Mandy@epa.gov</u>> **Subject:** RE: A&WMA Annual Conference & Coffee

It's a plan! Talk in PA.

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Tuesday, May 16, 2017 2:35 PM

To: Dallas Baker < <u>dallas.baker@neel-schaffer.com</u> > **Subject:** RE: A&WMA Annual Conference & Coffee

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I'm also just noticing that you are at a Neel Schaffer address – congrats on your new position as well!

Look forward to catching up soon, Mandy

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I was a proud member of AAPCA, and am sure you saw this recent letter my friend Clint wrote, FYI: http://www.csg.org/aapca_site/documents/AAPCA-EPARegulatoryReform-DocketIDEPA-HQ-OA-2017-0190-5-15-17.pdf

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.....

Dallac Raker D.E. RCEE

Dallas Baker, P.E., BCEE
Director of Environmental Services

Neel-Schaffer, Inc.

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Ridgeland, MS 39157 Office: 601.499.0653 Cell: 601.953.7146 Receptionist: 601.898.3358

Email: dallas.baker@neel-schaffer.com Website: www.neel-schaffer.com

From: Mandy Gunasekara [mailto:mandy.gunasekara@gmail.com]

Sent: Tuesday, May 16, 2017 11:21 AM

To: Dallas Baker < dallas baker@neel-schaffer.com > Cc: Bonnie Morgan < bonnie morgan@neel-schaffer.com > Subject: Re: A&WMA Annual Conference & Coffee

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Bonnie is great!

Sent from my iPhone

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Mandy,

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Congratulations on your new appointment with EPA. Our mutual friend Bonnie Morgan discretely gave me your gmail address; hope you don't mind. I wanted to reach out and see if you and I could have a few minutes together in Pittsburgh Thursday, June 8. I understand you are invited to speak at the morning session titled, "Clean Power Plan (CPP) Litigation Updates and Road Ahead." That should be a standing room only! If you're making the trip, perhaps afterwards we could grab coffee? As a former Air Director from Mississippi, and a Past President of A&WMA, my perspectives of implementing environmental policy at the state level, and how states vary in advocacy, would perhaps shed light into the amazing transformation the Administration is orchestrating. I commend the work, but have some cautions towards unintended consequences. I'm very impressed with Administrator Pruitt's first weeks in D.C. and would like to help in any way. (So does Bonnie, by the way!)

Coffee in PA?

.....

Dallas Baker, P.E., BCEE

Director of Environmental Services

Neel-Schaffer, Inc.

1022 Highland Colony Parkway, Suite 202

Ridgeland, MS 39157 Office: 601.499.0653 Cell: 601.953.7146

Receptionist: 601.898.3358

Email: dallas.baker@neel-schaffer.com Website: www.neel-schaffer.com

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From: Mark Carr [markc@channeldesigngroup.com]

Sent: 6/29/2017 4:24:45 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Question with some urgency.

Personal Matters / Ex. 6 Are you getting any time off this weekend? I hope to go up to the foothills.

Question: I expect to see the Administrator here in New York City tomorrow for a lunch presentation he's giving at the Manhattan Institute. Several of our Coalition experts are attending. In order to reinforce the message about the briefing he requested, the red team / blue team approach, and related matters, it would be helpful if we knew who was staffing your boss. Will you kindly reply with that information so we know where to direct our efforts?

To our mutual benefit...

Mark J Carr Channel Design Group 314-616-6957 DC - NOLA - StL

From: Alteri, Sean (EEC) [Sean.Alteri@ky.gov]

Sent: 7/21/2017 7:45:01 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: KY Transport Call

Good afternoon, Mandy.

Secretary Snavely asked me to discuss a couple of items with you related to Kentucky. When you find time, please give me a call. I can only imagine how busy you are these days, but the call is important and shouldn't take more than 5 minutes.

Many thanks,

Sean

Sean Alteri, Director Kentucky Division for Air Quality 300 Sower Boulevard, 2nd Floor Frankfort, Kentucky 40601 (502) 782-6541 http://air.ky.gov

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, July 03, 2017 11:53 AM **To:** Alteri, Sean (EEC) < Sean. Alteri@ky.gov>

Subject: RE: KY Transport Call

Sean,

Sorry I didn't connect last week. I'll be back this afternoon to touch base.

Best, Mandy

From: Alteri, Sean (EEC) [mailto:Sean.Alteri@ky.gov]

Sent: Monday, July 3, 2017 11:49 AM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov >

Subject: FW: KY Transport Call

FYI:

From: Alteri, Sean (EEC)

Sent: Monday, July 03, 2017 11:49 AM

To: 'Kemker, Carol' < Kemker.Carol@epa.gov >; Banister, Beverly (Banister.Beverly@epa.gov)

<<u>Banister.Beverly@epa.gov</u>>; Benjamin, Lynorae (<u>benjamin.lynorae@epa.gov</u>) <<u>benjamin.lynorae@epa.gov</u>>; Wood,

Anna < Wood. Anna@epa.gov >; 'haeuber.richard@epa.gov' < haeuber.richard@epa.gov >; Ling, Michael

<<u>Ling.Michael@epa.gov</u>>; Wayland, Richard <<u>Wayland.Richard@epa.gov</u>>; 'hogan.stephanie@epa.gov'

<hogan.stephanie@epa.gov>; 'smith.kristi@epa.gov' <smith.kristi@epa.gov>; 'jones.rhea@epa.gov'

<iones.rhea@epa.gov>; 'risley.david@epa.gov' <<u>risley.david@epa.gov</u>>; <u>davis.scottr@epa.gov</u>;

<u>Bradley.twunjala@Epa.gov</u>; Bailey, Ashten <<u>Bailey.Ashten@epa.gov</u>>; Scofield, Steven <<u>Scofield.Steve@epa.gov</u>>;
'triplett.eric@epa.gov' <<u>triplett.eric@epa.gov</u>>; 'tommello.nancy@epa.gov' <<u>tommello.nancy@epa.gov</u>>

Cc: Quarles, Jackie (EEC) <<u>Jackie.Quarles@ky.gov</u>>; Duff, Melissa K (EEC) <<u>melissa.duff@ky.gov</u>>; Luther, Martin (EEC) <<u>Martin.Luther@ky.gov</u>>; Poff, Leslie <<u>LeslieM.Poff@ky.gov</u>>

Subject: RE: KY Transport Call

First of all, I would like to thank everyone for the conference call to discuss the interstate transport issue as it relates to the court order requiring EPA to issue a Federal Implementation Plan no later than June 30, 2018, for Kentucky. I certainly appreciate the thoughtfulness and considerations expressed during the conversation. As requested during the call, we are providing you with the following questions that will assist us as we move forward:

General questions:

- When does EPA expect to finalize the model specifications and begin modeling runs?
- Will EPA share the modeling specifications and approach with Kentucky no later than September 30, 2017?
- When does EPA project to complete modeling and begin determining control strategies?
- What is EPA's tentative deadline for submitting the proposed FIP to OMB for review and publication in the Federal Register?

Base and Future Years:

- Will EPA update the base case platform with more recent, available emissions data (i.e. 2014 NEI)?
- Will EPA consider an updated 2014 NEI base case platform with 2011 meteorology?
- What future year does EPA intend to model?
- Would EPA allow Kentucky EGUs to provide better emissions projections for the future year modeling?

Non-EGU control strategies:

- Has EPA completed its assessment of non-EGU controls as indicated in the attached brief on page 15? When will the NODA be published and made available for public comment?
- If the updated CSAPR ozone season budgets do not fully satisfy the interstate transport obligation for Kentucky, what other control requirements would EPA consider to eliminate significant contribution?
- What "on-the-books" air pollution control programs have not been modeled by EPA?
- In lieu of modeling, could EPA scale "on-the-books" air pollution control programs, such as Connecticut RACT, based upon percent reductions?

Source apportionment:

- Has EPA conducted ozone source attribution modeling for source specific sectors (EGU, non-EGU point, nonroad, onroad mobile, etc.) within each state to determine the relative contribution of individual source types on downwind receptors?
- Will EPA use the ozone source apportionment technology (OSAT) technique in CAMx to identify significant contribution from only anthropogenic emission sources?
- Will EPA model complex land-water interface monitors at finer grid resolution than 12km as recommended in the most current attainment modeling guidance?

Again, thank you for the open dialogue and positive meeting. I appreciate any information that can be provided to better assist our decision-making process of whether to pursue the development of a state implementation plan. If you have any questions or additional information, please contact us at your convenience.

Best regards,

Sean

Sean Alteri, Director Kentucky Division for Air Quality 300 Sower Boulevard, 2nd Floor Frankfort, Kentucky 40601 (502) 782-6541

-----Original Appointment-----

From: Kemker, Carol [mailto:Kemker.Carol@epa.gov]

Sent: Wednesday, June 21, 2017 3:11 PM

To: Kemker, Carol; Wood, Anna; Haeuber, Richard; Ling, Michael; Banister, Beverly; Wayland, Richard; Hogan, Stephanie; Smith, Kristi; Benjamin, Lynorae; Jones, Rhea; RTP-OAQPS-919-541-4486-SPPD/Phone-Line/RTP-OAQPS-BLDG-C; Risley, David; Davis, Scott; Bradley, Twunjala; Bailey, Ashten; Scofield, Steven; Triplett, Eric; Tommelleo, Nancy; Duff, Melissa K

(EEC); Alteri, Sean (EEC) **Subject:** KY Transport Call

When: Monday, June 26, 2017 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: 12B 866-299-3188 4045628975#



Bernadette M. Rappold Tel 202.331.3127 Fax 202.331.3101 rappoldb@gtlaw.com

July 7, 2017

Via email

Ms. Mandy Gunasekara Mr. Alexander Dominguez U.S. Environmental Protection Agency 1200 Pennsylvania Avenue, NW Washington, DC 20460

Re: Follow-up from the National Sorghum Producers Regarding Its Biodiesel Pathway Petition

Dear Ms. Gunaekara and Mr. bominguez:

Appreciating how busy you must be as you work to implement the Administration's and Administrator Pruitt's bold agenda, I wish to thank you again, on behalf of the National Sorghum Producers (NSP), for meeting with us June 29, 2017.

As we explained, NSP and its members have been working towards approval of the sorghum-oil-to-advanced-biodiesel pathway for almost four years now, and each month of delay is costing sorghum farmers real money, delaying construction of additional sorghum oil plants, and costing goodpaying jobs in rural America.

What we seek comports not only with the statute and regulations, but with President Trump's express direction via Executive Orders 13771 and 13783, respectively, urging prudence and financial responsibility in the expenditure of funds and calling for agencies to reduce regulatory burdens on the development of domestic energy sources.

Our sorghum oil pathway is viable and ready to deliver up to 14 million ethanol-equivalent gallons of advanced biofuel the moment it receives Agency approval. Upon full adoption of oil extraction technology, total production could increase to 19 million ethanol-equivalent gallons annually.

As promised at our meeting last week, I write now to provide a crisp overview of NSP's specific request for expeditious approval and the legal basis on which it may be granted.

1. NSP is requesting that the EPA grant its sorghum-oil-to-advanced-biodiesel pathway petition via letter posted on the agency's website.

The Administrator has express regulatory authority to grant the petition in this manner. The regulation at 40 CFR § 1426(f) authorizes that "D codes shall be used in RINs generated

WDC 373522201v2

by producers or importers of renewable fuel according to the pathways listed in Table 1 to this section, paragraph (f)(6) of this section, or as approved by the Administrator." (Emphasis added.)

Indeed, the EPA's own description of its petition approval process (found here: https://www.epa.gov/renewable-fuel-standard-program/renewable-fuel-petition-review-process#step4) expressly states that where, as here, a potential pathway represents "a slight modification from an existing pathway, such that the determination can rely on a straightforward extension of EPA's previous assessments for most portions of its lifecycle analysis and no significant new policy issues are apparent," the petition may be granted via a document (i.e., a letter) signed "by the Director of EPA's Office of Transportation and Air Quality, delivered to the petitioner via email and mail, and posted on the EPA website."

The NSP petition relies on a **straightforward extension of prior assessments** on this well-studied crop grain. Any differences between the sorghum-oil-to-advanced-biodiesel and corn-oil-to-advanced-biodiesel pathway are slight; and what differences exist demonstrate the sorghum pathway's improved carbon footprint compared to corn.

Contrast what the NSP seeks here with what the EPA approved via letter last year for Joule Unlimited Technologies, Inc. (Joule). (https://www.epa.gov/sites/production/files/2016-04/documents/joule-deter-ltr-2016-03-29.pdf.) Joule sought approval of a pathway involving a novel biofuel production technology: the use of cyanobacteria to turn CO2 directly into ethanol, a technique not previously been modeled. It is difficult to see how that technology could escape the Federal Register Notice or rulemaking approaches, but that sorghum oil, which is spun from distillers' grains via the same, simple centrifuges used for corn oil, must be subject to more onerous bureaucratic approval processes.

2. NSP is asking that the letter approval specifically allow multiple producers to generate RINs for the sorghum-oil-to-advanced-biodiesel pathway.

While the Agency must comply with the Administrative Procedures Act's requirements that it engage in rulemaking for any "legislative rule" of general applicability, the NSP is not seeking such a determination here.

Rather, the NSP is asking that the Agency's approval be crafted in a manner allowing a handful of biodiesel-from-sorghum-oil production facilities to immediately begin generating RINs upon registration.

While the sorghum oil biodiesel producers may belong to separate corporate entities, they utilize a fungible production process to produce advanced biodiesel from sorghum oil. In this way, these separate facilities function analogously to multiple facilities belonging to a single company.

July 7, 2017 Page 3

Our approach would conserve both Agency and industry resources by eliminating the need for each producer to seek a producer-specific pathway approval. In our industry, comprised of small businesses operating on slender margins, conserving resources is a must.

To be clear, the NSP is not asking the Agency to approve via letter the use of the sorghum-oil-to-advanced-biodiesel pathway for all potential producers for all time.

3. After the EPA approves the pathway via letter for the referenced handful of producers, we respectfully ask the Agency to include a broad sorghum-oil-to-advanced-biodiesel pathway in a future Federal Register notice or rulemaking, making the pathway available to all eligible producers.

Given the extensive sorghum and other grain modeling the EPA has already carried out in previous rulemakings and petition approvals, we submit that including our pathway broadly in a future Federal Register notice or rulemaking would be a relatively light lift. The NSP pledges to provide the Agency with any assistance it can on that subsequent effort.

Closing

We thank you again for the time and attention you have devoted to this matter. We stand ready to provide any additional detail you may require.

The approach we advocate would allow the nation's sorghum growers, who are hurting financially, to recoup additional value for their crop, while helping the EPA deliver on the statutory mandate to make available more gallons of domestically-produced advanced biofuel.

THANKS SO MUCH!

DO NOT HESITATE TO CALIF

YOU NEED MORE INFO

Bernadette M. Rappold

Shareholder

cc:

Tim Lust, National Sorghum Producers
John Duff, National Sorghum Producers

WDC 373522201v2



Disney Finds New Ways to Reduce, Reuse, Recycle Food Waste

LAKE BUENA VISTA, Fla., April 21, 2015 – With hundreds of food and beverage locations throughout Walt Disney World Resort, how do Disney chefs ensure that guests enjoy bountiful buffets, endless gourmet experiences and well-stocked sweet shops ... all without excessive food waste? The secret ingredients are reducing, reusing and recycling.

Disney has developed a variety of innovative systems and best practices to address this issue, from the first stages of food planning and preparation through the final processing of food waste. With the Company's new buffet optimization tool, which forecasts restaurant food production based on volume, Disney has reduced buffet food production by tens of thousands of pounds each year.

To achieve these results, teams conducted in-depth research to gauge the amount of food remaining after meals. No statistic was left without scrutiny – researchers even calculated the amount of excess sauce left in each pan.

"We were willing to step out of our comfort zone to introduce a new and thought-provoking idea to meet our environmental goals," said John L. Clark, chef de cuisine, Disney's Grand Floridian Resort & Spa. "It's important to remember that no thought is too small to make an impact on the environment."

Despite this new tool's efficiency, it doesn't eliminate *all* food waste. Some remaining food is donated, while the rest is transported for reuse and recycling. In 2014, Walt Disney World Resort became one of the first customers of *Harvest Power Orlando*, an advanced food waste recovery facility. This facility has the capacity to convert more than 120,000 tons of organic waste, such as food scraps, annually into renewable biogas and natural fertilizers, as well as the potential to produce 7 megawatts of combined heat and power.

Through a process called anaerobic digestion, Harvest Power Orlando uses naturally occurring micro-organisms to break down Disney's organic food waste and transform the resulting biogas into renewable energy for the Reedy Creek Improvement District. Some of the waste is also converted into fertilizer that is sold to help revitalize local soil. Disney's collaboration with Harvest Power allows for more food waste to be recycled than ever before, diverting waste that may have once ended up in a landfill.

From: Toomey, Jon [Jon.Toomey@mail.house.gov]

Sent: 6/30/2017 6:31:19 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dominguez, Alexander

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: Re: Congressman Black - Glider Kits

Hi Mandy,

I wanted to check and see if there is any update on this that I can provide to the Chairman. Thank you again for all of your work on this issue!

Have a great 4th!

Jon

(202) 510-2934

Jon Toomey Legislative Counsel Congressman Diane Black

Sent from my iPhone, please excuse errors or brevity

On Jun 21, 2017, at 8:53 AM, Toomey, Jon < Jon. Toomey@mail.house.gov > wrote:

Mandy and Alex,

I wanted to flag for you a new memorandum regarding the EPA's authority to regulate gliders. I have also included the Tennessee Tech evaluation of the Phase II Heavy Duty Truck Rule.

Please let me know if you have any questions and thank you for all of your work on this!

Best, Jon

m. (202) 510-2934

Jon Toomey

Legislative Counsel

Jon.Toomey@mail.house.gov

Congressman Diane Black (TN-06)

1131 Longworth HOB

Washington, DC 20515

202.225.4231 (phone) | 202.225.2887 (fax)

<Analysis of EPA Authority To Regulate Gliders - 6-16-17.pdf>

<Congressman Black 6-16-17.pdf>

From: Patrick Wilson [patrick.wilson@cummins.com]

Sent: 6/29/2017 2:41:28 AM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: VW Settlement Question - Cummins Inc.

Thanks so much for your help!!

Thanks Mandy!

W. Patrick Wilson Cummins Inc. 202-997-3597 (m) Sent from my iPhone 7s

On Jun 28, 2017, at 10:12 PM, Gunasekara, Mandy <Gunasekara. Mandy@epa.gov> wrote:

Hi Patrick,

Let me touch base with a few folks and see who is best suited to respond.

Thanks, Mandy

From: Patrick Wilson [mailto:patrick.wilson@cummins.com]

Sent: Tuesday, June 27, 2017 4:12 PM

To: Gunasekara, Mandy < Gunasekara, Mandy@epa.gov>

Subject: VW Settlement Question - Cummins Inc.

Hi Mandy

Hope you're having a good week. I wonder if you could help point me in the right direction? As you may have read, the Volkswagen settlement has entered its final phase and a trustee has been appointed, but the final order has not been released. I was curious if you could share the point of contact on this issue in the Administrators team? I just wanted to reach out to that person about any proposed changes that have been made or other actions relevant to that programs implementation moving forward.

Hope to see you soon and thanks for your help with my question.

All the best,

Patrick

W. Patrick Wilson

Director, Government Relations Cummins Inc.

601 Pennsylvania Avenue, NW Suite 1100 N Washington, DC 20004 0- 202-654-4280 M - 202-997-3597

From: Minnich, Tyler (Toomey) [Tyler_Minnich@toomey.senate.gov]

Sent: 7/21/2017 7:12:26 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: 'Dominguez.alex@epa.gov' [Dominguez.alex@epa.gov]; Palich, Christian [/o=ExchangeLabs/ou=Exchange

Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]

Subject: Phone call w/ Sen Toomey staff - RINs compliance

Hi Mandy,

My name is Tyler Minnich, and I handle energy/environment issues for Senator Toomey. It's my understanding that you've been in contact with one of our refineries in Pennsylvania (Philadelphia Energy Solutions) about some compliance issues with the RFS.

Do you have time for a phone either later today or earlier next week (Mon or Tues) to talk about their situation? My direct line is Personal Phone / Ex. 6 Thanks for your time, and hopefully we can connect in the next couple days.

Have a great weekend.

-Tyler

Tyler Minnich | Legislative Assistant Office of Senator Pat Toomey (202) 224-4254 (office) | toomey.senate.gov

From: Richard, Kirby [Kirby.Richard@mail.house.gov]

Sent: 7/19/2017 3:05:37 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Letter to Sec. Pruitt re: gliders **Attachments**: Sec. Pruitt EPA gliders.pdf

Hi Mandy,

I hope you're doing well! I have attached a letter Representatives Blum and Young have sent to Administrator Pruitt expressing their concerns regarding the inclusion of gliders and glider kits in Phase 2 of the Greenhouse Gas and Emissions Fuel Efficiency Standards for Medium and Heavy Duty Vehicles. Jon Toomey with Rep. Black told me he has been working with you on this issue. Please let me know if you have any insight on the issue or if there's additional steps we could take to express opposition to the glider provision of the rule.

Thank you!

Kirby Richard

Legislative Assistant Congressman Rod Blum (IA-1) 1108 Longworth House Office Building Washington, DC 20515 (202)225-2911

Congress of the United States Washington, DC 20515

July 18, 2017

The Honorable Scott Pruitt Administrator U.S. Environmental Protection Agency 1200 Pennsylvania Avenue, NW Washington, DC 20460

Dear Administrator Pruitt:

As members of the Iowa delegation, we are writing to express our concerns regarding the Environmental Protection Agency's (EPA) final rule, Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Vehicles-Phase 2, as it pertains to gliders. Finalized by the Obama Administration on October 25, 2016 and scheduled to be fully effective on January 1, 2018, this part of the rule will jeopardize the entire glider industry and the thousands of American jobs it supports.

A "glider" is a rebuilt truck that is assembled by combining a "glider kit" with the engine, transmission, and rear axle from a used truck. A "glider kit" is a group of vehicle parts that can include a new truck frame, cab, and front axle, but does not include an engine, transmission, or rear axle.

With this rule, the EPA mandated for the first time that gliders, glider kits, and the used engines in gliders must now comply with the emissions standards for the model year in which the glider is built. Essentially, the glider is regulated as if it were a new vehicle under the authority of the Clean Air Act, despite being assembled by replacement parts and a refurbished engine, transmission, and rear axle. Furthermore, the new EPA rule conflicts with the National Highway Traffic Safety Administration ruling that gliders are not regulated as new vehicles.

Additionally, the EPA rule disregards the environmental benefits of gliders. For example, a standard, base model glider gets 20 percent better fuel mileage than the national average at road speed and full load. Rebuilding an engine and transmission requires 85 percent less energy than manufacturing a completely new engine.

In Iowa alone, this regulation could force the state's largest supplier of gliders to eliminate 30 percent of a 450-employee workforce, and reduce their revenue by \$70 million out of a total of \$210 million. Additionally, the company's customers – mostly farmers and small businesses - will lose access to a cost-effective source of the trucks needed to support their livelihoods.

If allowed to go into effect, this rule will be detrimental to American manufacturing, effectively eliminating the glider industry and the jobs it creates across the country. The EPA rule will force small businesses to buy more expensive vehicles instead of investing in their business and creating jobs.

PRINTED ON RECYCLED PAPER

For these reasons, we respectfully request the EPA to consider the impacts this rule will have on the American economy while doing little to achieve its initial objective.

Thank you for your time and prompt consideration of this matter.

Sincerely,

Member of Congress

Rod Blum

Member of Congress

D'Angelo, Wayne J. [WDAngelo@KelleyDrye.com] From:

6/28/2017 12:30:10 PM Sent:

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Follow-up to SMA meeting

Attachments: SMA letter 2017.pdf; Petersburg Invite.pdf

Flag: Follow up

Mandy, Thank you again for speaking at the Steel Manufacturers Association's Environment Committee meeting. The members appreciated the ability to share their thoughts and to understand the Administration's interest in working with industry to make environmental regulations more efficient and more effective. I have attached two letters, hard copies of which were mailed to you yesterday. The first provides an overview of the EPA Region 5 enforcement approach that has been adversely impacting SMA member companies. The second letter is a joint invitation from SMA and Gerdau to tour Gerdau's electric arc furnace steel mill in Petersburg, Virginia. While the invitation is addressed to you and offers recommended tour dates, you should feel free to extend the invite to your colleagues and to propose alternative dates.

Thank you again for your participation at the SMA meeting. We hope you will be able to visit Gerdau's facility and we look forward to our continued dialogue.

If you have any questions or concerns, please do not hesitate to contact me.

Best. Wayne

KELLEY DRYE

Wayne D'Angelo

Kelley Drye & Warren LLP Washington Harbour, Suite 400 3050 K Street, NW, Washington, DC 20007 o: (202) 342-8525 | m: (202) 329-3977 wdangelo@kelleydrye.com Website

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Eric J. StuartVice President, Energy & Environment

Phone: (202) 296-1515

21st Century Steelmakers

June 27, 2017

Mandy Gunasekera US EPA Headquarters William Jefferson Clinton Building 1200 Pennsylvania Avenue, N. W. *Mail Code*: 1101A Washington, DC 20460

Dear Mrs. Gunasekara,

On behalf of the Steel Manufacturers Association ("SMA"), I would like to thank you again for taking the time to speak to the SMA's Environment Committee meeting on May 24, 2017. The SMA and its members are encouraged by your interest in working with our industry to ensure that the Environmental Protection Agency's ("EPA's") regulations effectively protect human health and the environment without imposing costs and burdens that fail to deliver any concordant environmental benefits.

The SMA has maintained a longstanding and constructive dialogue with EPA and we are gratified by your interest, and Administrator Pruitt's interest, in learning more about our industry. We are committed to being a resource for this Administration and a source of honest and credible feedback and data.

As we discussed at SMA's Environment Committee meeting, we believe there is no better way to understand the electric arc furnace ("EAF") steelmaking industry and the way our industry is regulated than to visit one of our members' mill to watch them recycle scrap metal into new steel products. To that end, we would like to formally invite you (and any of your colleagues) to visit Gerdau's structural steel mill in Petersburg, Virginia.

Not only is Gerdau's Petersburg mill one of the closest mills to Washington, D.C., it also provides one of the best configurations for understanding EAF steelmaking from scrap processing to finished product. Gerdau's Petersburg mill is also very important because the role it has played, and will continue to play, in helping to rebuild America's infrastructure. Gerdau is one of America's leading producers of long steel product used in construction and infrastructure, including the beams and pilings that are manufactured at the Petersburg mill for use in construction and infrastructure projects all over the United States.

The Petersburg mill also exemplifies Gerdau's commitment to providing well-paying jobs, safe workplaces, and environmentally sustainable products. We hope you will take the opportunity visit this mill, meet Gerdau's employees, and witness firsthand the pride they take in their jobs and the products they manufacture.



Phone: (202) 296-1515

21st Century Steelmakers

Based on maintenance and other activities scheduled at the Petersburg mill and our presumption that Congressional recess periods are more convenient for you, Gerdau and SMA would be glad to host you any day between July 24 and August 4, 2017. If none of these dates are convenient, feel free to recommend some alternatives. We want to make this visit informative and convenient, and I am confident we will be able to accommodate whatever scheduling needs you have.

Thank you for your consideration of this invitation and for your interest in better understanding the EAF steelmaking industry. We look forward to your response.

Sincerely,

Eric J. Stuart

Steel Manufacturers Association

Ein J Stunt

Odern Parn

Adam Parr

Gerdau Long Steel North America



21st Century Steelmakers

Phone: (202) 296-1515

June 27, 2017

Mandy Gunasekera US EPA Headquarters William Jefferson Clinton Building 1200 Pennsylvania Avenue, N. W. *Mail Code*: 1101A Washington, DC 20460

Dear Mrs. Gunasekara,

On behalf of the Steel Manufacturers Association ("SMA"), I would like to express our sincere gratitude for taking the time to speak to SMA's Environment Committee meeting on May 24, 2017. We appreciated the opportunity to learn more about Administrator Pruitt's priorities for the U.S. Environmental Protection Agency ("EPA") and his approach to enforcement and compliance. SMA's members also appreciated the opportunity to share with you their experiences as the environmental managers tasked with maintaining environmental compliance in one of the most heavily regulated industries in the world.

As you witnessed, these environmental engineers expressed frustration, not with the regulations that were developed through rulemaking or with conditions expressly identified and agreed to in their permits, but with regulatory interpretations developed after the fact that often create new and unanticipated environmental obligations. These ad hoc interpretations tend to come from regional enforcement personnel and often deal with particulate matter ("PM") emissions. In particular, over the past few years, EPA Region V has implemented a vigorous enforcement program targeting EAF steel mills. Nearly all of the mills in Region V have been inspected in the past three years. Many of those mills also have received Information Collection Requests ("ICRs") under CAA Section 114. In some cases, those inspections and/or ICRs have identified legitimate compliance issues which have resulted in enforcement actions. The SMA has no objection to using enforcement authority when legitimate compliance issues exist. Some of the mills, however, have received enforcement notices based upon highly questionable interpretations of the CAA, EPA's regulations under the CAA, and/or facility permit language. The mills have been unsuccessful in their attempts to address these issues with Region V, and we would like your help to bring more clarity and consistency to the regional approach to regulatory interpretation in enforcement matters.

Regulatory Background

While the precise wording of permit requirements can differ from permit to permit, most Title V air permits for EAF steel mills use the same or very similar language because each of those permits must apply the same regulatory requirements, including those requirements in EPA's EAF-specific



21st Century Steelmakers

Phone: (202) 296-1515

National Emissions Standards for Hazard Air Pollutants ("Subpart YYYYY"), and for the majority of EAF mills that were constructed or modified after 1983, New Source Performance Standards for EAFs ("Subpart AAa").¹ Both Subpart YYYYY and Subpart AAa contain prescriptive requirements for the control of PM – the pollutant at issue in Region V enforcement interpretations.²

Subpart YYYYY requires EAF steel mills to "install, operate, and maintain a capture system that collects the emissions from each EAF (including charging, melting, and tapping operations) . . . and conveys the collected emissions to a control device for the removal of particulate matter" EAF steel mills comply with this requirement by collecting emissions through systems that, depending on the particular mill and particular stage in the steelmaking process, evacuate emissions directly from the EAF, or indirectly through the operation of "scavenger" hoods that collect emissions within the building housing the EAF (the meltshop). These emissions are ducted to a "baghouse," which is a large building typically located adjacent to the meltshop. Baghouses contain hundreds of fabric filter "bags" that capture the particulates before the gases are vented to the atmosphere.

Importantly, EPA's regulations not only require these controls to be used, they require these controls to be used effectively. To that end, Subpart YYYYY and Subpart AAa require emissions from the baghouse to meet stringent control limits (no more than 0.0052 grains of PM per dry standard cubic foot gr/dscf)).⁴ Compliance with these limits is monitored through highly regimented performance testing and sampling protocols,⁵ bag leak detection systems or continuous opacity monitors,⁶ and mandatory ongoing monitoring of operating parameters (like baghouse flow rate, fan speeds, and damper positions) to ensure that the control system is functioning properly and operating within the performance range that was demonstrated to be effective during the stack testing.⁷

Compliance with PM limits is also monitored through opacity limits. Opacity is a measure of the visibility of emissions and serves as a compliance limit for particulates emitted as fugitive (uncontrollable) emissions. There are different opacity limits for several different sources within EAF Steel Mills, but only two that are relevant here. Subpart AAa imposes a 3% opacity limit on

¹ 40 C.F.R. section 60.270a

² Subpart YYYYY requires the control of PM as a surrogate for controlling various hazardous air pollutants.

³ 40 C.F.R. section 63.10686(a).

⁴ 40 C.F.R. section 63.10686(d); 40 C.F.R. section 60.272a(a)(1).

⁵ 40 C.F.R. section 63.10686(d).

^{6 40} C.F.R. section 60.273a.

⁷ 40 C.F.R. section 63.10686(d).



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emissions from the baghouse⁸ and both Subparts AAa and YYYYY impose a 6% opacity limit from "fugitive" EAF emissions that are released from openings in the meltshop.⁹

Importantly, both of these limits measure the effectiveness of the baghouse system that is required under Subparts AAa and YYYYY. The 3% opacity limit from the baghouse (which is effectively any emission which can be seen with the naked eye) ensures that the baghouse filter system is meeting the 0.0052 gr/dscf limit and effectively removing PM. The 6% opacity limit on EAF emissions exiting the meltshop is also measuring the effectiveness of the baghouse system's PM removal because it demonstrates that the control system is drawing off sufficient emissions into the baghouse filters to prevent the escape of "fugitive" emissions from the meltshop above 6% opacity. Moreover, because Subpart AAa and Subpart YYYY contain specific PM emission limits for fugitive emissions, the 6% opacity limit is sole the measure of compliance for all fugitive EAF emissions that may exit the meltshop.

Under Subparts AAa and YYYYY (and in many other sector-specific rules) opacity is measured through an EPA-approved protocol called "Method 9." Method 9 is a visible observation that must be conducted by personnel trained and certified through EPA-approved programs. At EAF steel mills, Method 9 trained personnel may be required to conduct observations as often as once per day. Each of these observations must be documented and any exceedance must be reported to the permitting authority.

Permitting authorities also use Method 9 to evaluate EAF steel mills' compliance with opacity limits. These Method 9 observations may be conducted by enforcement personnel on site or, in many instances, through unannounced offsite observations. The ability of enforcement personnel to evaluate a facility's compliance with its air permit at a distance using nothing more than the naked eye is therefore a significant deterrent to noncompliance.

Regional Misinterpretation

To address the specific Subpart AAa and YYYYY requirements, EAF steel mill permits typically contain language directing that the mill "shall control" EAF emissions or operate the control device "at all times that the unit is in operation." In some cases, the permit background documents contain estimates regarding the control efficiency of the baghouse or the capture efficiency of the canopy hoods. These efficiency estimates are sometimes used to calculate maximum hourly or daily emissions.

In several recent instances, Region V inspectors adopted the novel position that the requirement to "control emissions" applies at the point of generation (*i.e.*, inside the meltshop), and that failure to

⁸ 40 C.F.R. section 60.272a(a)(2).

⁹ 40 C.F.R. section 60.272a(a)(3); 40 C.F.R. section 63.10686(b)(2).



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achieve 100% capture and control at that internal point is therefore a violation of the permit, even when there is no correlating indication of a violation of the emission limits or opacity standards outside of the meltshop building. To be clear, Region V has cited EAF steel mills for failure to "maintain good air pollution control practices:"¹⁰

- without ever showing that the mill exceeded applicable PM or opacity limits, including the PM limit from the baghouse and the opacity limits from both the baghouse and the meltshop;
- when all of the mill's monitoring and testing requirements demonstrate compliance with the PM and opacity limits; and,
- when state and/or Region V enforcement personnel performing Method 9 observations identified no opacity violations.

There is simply no basis for interpreting permit requirements to control emissions *from the meltshop* as requiring mills to control 100% of emissions *within the meltshop*. Region V's interpretation effectively eliminates the Subpart AAa allowance for emissions of up to 6% opacity from the meltshop, and is based on a technological fiction - no steel mill "captures and controls" 100% of all particulate emissions from the furnaces inside the meltshop.

EPA Region V's interpretation of the standard is in direct conflict with how Subpart AAa and corresponding permit limits were developed and the entire purpose of preventing emissions releases to the external environment. Notwithstanding the invalidity of this interpretation, the threat of enforcement has been used to force mills to agree to heavy fines and to conduct expensive ventilation studies that may, in turn, be used to create enforceable obligations to "maintain good air pollution control practices:" all with no reduction in actual emissions to the environment.

Region V has also used EPA's general regulatory requirement under the CAA to "maintain good air pollution control practices" to stifle innovation and effectively punish mills that voluntarily explore operational or technological improvements to their pollution control equipment. In some cases, regional enforcement personnel have required mills, in response to an Information Collection Request under CAA Section 114, to produce copies of voluntary engineering studies or vendor-conducted studies that have been conducted by or at the mill. Often, these studies are conducted to evaluate new processes or equipment. In some cases, the vendor-sponsored studies are conducted as part of a marketing effort independent of the steel mill. These studies are not required by the CAA or the facility's permits, but instead may be used to support decisions to upgrade equipment or improve operations. Recommendations from the studies are evaluated internally for feasibility and, if approved, may then go through the permitting process. Study results intended to increase efficiency may or may not be implemented depending on a number of

¹⁰ 40 C.F.R. section 60.11(d).

¹¹ 40 C.F.R. section 60.11(d).



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factors, including permitting implications and cost. Even though the studies are not compliance related, EPA enforcement officials have found that the failure to implement the recommendations of such studies constitutes the "failure to maintain good air pollution control practices" despite the absence of an exceedance of any permit limit. As a result, mills are reluctant to conduct studies knowing that the recommendations may become *de facto* enforceable requirements. This chilling of innovation is not good for the industry or the environment.

Moreover, all of these enforcement actions in Region V have been undertaken in states that are authorized by EPA to implement the CAA permitting program. The mills in question have state-issued permits (reviewed by EPA Region V), file frequent compliance reports with the states, are routinely inspected by the states, and, in some cases, been the subject of enforcement actions by the states. Notwithstanding the states' use of delegated oversight and enforcement authority, Region V has overstepped its state partners to bring these enforcement actions without any state coordination at all. As a result, mills that are complying with their Title V air permits and recognized as in compliance by the state, based on actual monitoring and reporting data and inspections, can still face heavy fines from an overreaching regional office armed with compliance interpretations that were never coordinated with the state and which are frequently in conflict with the views of the state permitting authority, the permit holder, and even EPA's own Office of Air Quality Planning and Standards.

SMA Request

The regulatory interpretations advanced by Region V in enforcement actions against SMA members have no merit and would not withstand judicial scrutiny. Nonetheless, given the superior leverage wielded by EPA in enforcement proceedings through the ability to impose of significant fines, individual mills have been reluctant to challenge these interpretations. SMA has attempted to negotiate more reasonable interpretations with Region V staff but, thus far, have been unsuccessful.

The SMA believes that the compliance risks from regional misinterpretations of EAF steel mill permit language are so pervasive that EPA headquarters should provide clear and consistent direction to state and regional enforcement personnel directing precisely how many common provisions in EAF steel mill permits should be interpreted.

We request that EPA develop a compliance interpretation guide and mandate its use throughout the regional offices. The guidance could address those interpretations that are most frequently in dispute in enforcement actions against steel mills, including determinations of the point of compliance; the interplay between opacity limits, fugitive PM emissions and the duty to "maintain good air pollution control practices;" the role of the meltshop structure in evaluating compliance with fugitive emissions standard; and the meaning of commonly used phrases like "total capture" and "shall control." The SMA and its members welcome the opportunity to assist EPA in the development of this guidance.



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21st Century Steelmakers

The SMA appreciates your participation in our Environment Committee meeting and your willingness to listen to our industry. We are proud of our industry's commitment to environmental stewardship, proud to represent some of the largest and most efficient recyclers in the world, and proud of our longstanding and constructive dialogue with EPA. Thank you again for your willingness to work with SMA on issues important to our industry. If you have any questions, please feel free to contact Wayne D'Angelo at (202) 342-8525 or wdangelo@kelleydrye.com.

Sincerely,

Eric J. Stuart

Steel Manufacturers Association

Eric J Strat

From: Jon Niermann [Jon.Niermann@Tceq.Texas.Gov]

Sent: 7/14/2017 2:57:02 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Texas Air Issues

Greetings Mandy,

I just left you a voicemail message, but thought it might be helpful to follow up with an email. I would like maybe 10 minutes to visit with you about SO2 monitoring and about next steps on the SSM issue. Can you suggest a convenient time talk? I look forward to visiting with you.

- Jon

512-239-5505

Jon Niermann, Commissioner Texas Commission on Environmental Quality



From: Steve Milloy [milloy@me.com]

Sent: 7/5/2017 2:28:40 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Fwd: Request for Retraction of NEJM articles (Date Corrected Final)

FYI. Steve

Begin forwarded message:

From: Steve Milloy <milloy@me.com>

Subject: Request for Retraction of NEJM articles (Date Corrected Final)

Date: July 5, 2017 at 10:07:31 AM EDT

To: jdrazen@nejm.org

Cc: ecampion@nejm.org, mhamel@nejm.org, president@massmed.org, pelect@massmed.org, mmsvp@massmed.org, ssa16@columbia.edu, db@cmwf.org, me42v@nih.gov, farrar@wellcome.ac.uk, harvey.fineberg@moore.org, thomas.lee@pressganey.com, jlieberman@columbia.edu,

john.mcmurray@glasgow.ac.uk, trevor.mundel@gatesfoundation.org

July 5, 2017

Dr. Jeffrey M. Drazen Editor-in-Chief The New England Journal of Medicine 10 Shattuck Street Boston, MA 02115-6094

Re: Request for Retraction of NEJM Articles "Air Pollution and Mortality in the Medicare Population" and "Air Pollution Still Kills"

Dear Dr. Drazen,

I am writing to request that the *New England Journal of Medicine* retract the study entitled, "Air Pollution and Mortality in the Medicare Population" (NEJM Study) and the accompanying editorial "Air Pollution Still Kills" (NEJM Editorial), both of which appear in the June 29, 2017 issue. The basis for this request is scientific misconduct on the part of the study authors and editors.

I. The NEJM Study Authors Omitted Significant/Material Contradictory Information.

The NEJM Study omits material information and data that contradict the its conclusions. The NEJM editorial is, then, the fruit of this poisonous tree.

Specifically, there is no mention of the existence of the contradictory findings of other high quality PM2.5/mortality epidemiologic studies despite knowledge by the authors/editors of their existence. Just some examples of recent significant contradictory findings include the following (Citation/Excerpt from Abstract/Comment):

- Young S et al. Air Quality and Acute Deaths in California. Regul Toxicol Pharmacol. https://doi.org/10.1016/j.yrtph.2017.06.003. (In press, online June 13, 2017). "Neither PM2.5 nor ozone added appreciably to the prediction of daily deaths. These results call into question the widespread belief that association between air quality and acute deaths is causal/near-universal." Although this study became available at Regulatory Toxicology and Pharmacology in June 2017, it was first made available on Cornell University's arXiv.org web site on February 10, 2015 (https://arxiv.org/abs/1502.03062) and was presented at a poster session at the 2016 annual meeting of the Health Effects Institute (HEI). As you know, HEI is one of the funders of the NEJM study.
- Enstrom J. Fine Particulate Matter and Total Mortality in Cancer Prevention Study Cohort Reanalysis. Dose-Response.

 http://journals.sagepub.com/doi/10.1177/1559325817693345. (Published March 28, 2017). "No significant relationship between PM2.5 and total mortality in the CPS II cohort was found when the best available PM2.5 data were used." Not only was this study published three months ahead of the NEJM study but you personally rejected the study for publication in the NEJM on June 28, 2016.
- Greven S et al. An Approach to the Estimation of Chronic Air Pollution Effects
 Using Spatio-Temporal Information. Journal of the American Statistical
 Association. http://amstat.tandfonline.com/doi/abs/10.1198/jasa.2011.ap09392
 (Published January 12, 2012). "[W]e are not able to demonstrate any change in life expectancy for a reduction in PM2.5." One of the co-authors of this study, Francesca Dominici, is also a co-author on the NEJM study.

Please note that NEJM Study funder HEI, NEJM Study author Dominici and yourself as NEJM editor-in-chief are aware of these contradictory findings, yet there is no mention or allusion to them in the NEJM Study or NEJM Editorial.

II. Omission of Material Information Is Scientific Misconduct.

According to the standards for scientific misconduct applicable to studies funded by the Department of Health and Human Services established in 42 CFR Part 93 – Public Health Service Policies On Research Misconduct, "research misconduct" means:

- ... fabrication, falsification, or plagiarism in proposing, performing or reviewing research or in reporting research results.
- (a) Fabrication is making up data or results and recording or reporting them.
- (b) Falsification is manipulation research materials, equipment or processes or changing or omitting data or results such that the research is not accurately represented in the research record. [Emphasis added]
- (c) Plagiarism is the appropriation of another person's ideas, processes, results or words without giving appropriate credit.

III. The NEJM Study Omitted Key Information In Violation of Federal Rules.

Albert Einstein is credited with the observation that:

No amount of experimentation can ever prove me right; a single experiment can prove me wrong.

Regardless of the source of the quote, the thrust of the comment is axiomatic to science. It applies to the NEJM Study as follows: If PM2.5 kills, then it kills everywhere, in the same way, and all the time, and every study result should either be consistent with that hypothesis or be explained away as flawed or faulty.

There are many studies that fail to associate PM2.5 with death - e.g., the three studies cited above. But the NEJM Study and NEJM Editorial fail to mention or even allude to the existence of this contradictory evidence, let alone explain it away.

Omitting to even mention the existence of contradictory results is a clear misrepresentation of the research record. Worse, this misrepresentation can only be viewed as intentional as the existence of contradictory results are provably known to the NEJM Study funder, authors and you, coauthor of the NEJM Editorial. Most likely, the existence of these contradictory studies is known by the NEJM Study reviewers. There is no reasonable excuse for the omissions.

Although omission of the aforementioned significant contradictory evidence constitutes scientific misconduct on its own, there were other material omissions as well.

As every epidemiologist knows, epidemiology is merely statistical in nature and statistics cannot establish causation by themselves. As the U.S. Environmental Protection Agency, which is responsible for regulating PM2.5 in outdoor air, acknowledged to a federal court in litigation involving PM2.5:

[E]pidemiological studies do not generally provide direct evidence of causation; instead they indicate the existence or absence of a statistical relationship. Large population studies cannot assess the biological mechanisms that could explain how inhaling [PM2.5] can cause illness or death in susceptible individuals.

To assess the "biological mechanisms" that could explain how inhaling PM2.5 could cause death or illness, animal toxicology or human clinical research is necessary. But none of the extant PM2.5 animal toxicology, human medical research or human clinical research studies supports the hypothesis that PM2.5 kills. In short, there is absolutely no physical evidence that supports the claim that PM2.5 kills.

In addition to the absence of biological, medical, or other physical evidence supporting the notion that PM2.5 in outdoor air kills, there is a host of real-world evidence ranging from the smoking epidemiology to the epidemiology workers with high exposure to PM2.5 (e.g., coal miners) to other high, real-world PM2.5 exposures that plainly contradict the PM2.5-kills hypothesis. In short, if PM2.5 kills hundreds of thousands of Americans per year and millions around the world, as some claim, no physical evidence of this phenomenon has ever been produced.

The NEJM study (and NEJM editorial) also rely on a statistical precision that simply doesn't exist in epidemiology because of unavoidable uncertainty surrounding the data. This is the "garbage-in, garbage-out" phenomenon.

While the NEJM Study pretends to condemn PM2.5 based on a hazard ratio on the order of 1.08, every professional epidemiologist knows that hazard ratios below the level of 2.0 are unreliable.

This is has been a long-held view maintained by bodies such as the National Academy of Sciences, National Cancer Institute, World Health Organization and U.S. Food and Drug Administration. This principle was also embraced by Sir Austin Bradford Hill in his famed criteria for interpreting epidemiologic results.

The unreliable data problem is writ large in the NEJM Study as it, for example, lacks information on the cause of death for any individual in the Medicare population, relies entirely on guesstimated exposure data, and fails to consider confounding factors such as smoking, socioeconomic status and any of the other myriad potential competing risk factors for death.

All this key information is also omitted from the NEJM Study and NEJM Editorial.

IV. Conclusion

There can be little doubt that the NEJM Study and NEJM editorial omit key information that would otherwise place the reported results in accurate context. Given that the NEJM Study was federally funded, these omissions constitute scientific misconduct under federal regulations. I am requesting that the NEJM Study and NEJM Editorial be immediately retracted. The politicized nature of the NEJM Editorial, which attacks President Trump by name concerning the unrelated issued of U.S. withdrawal from the Paris climate agreement, only underscores the "political science" nature of this sordid incident.

None of this is rocket science. It is a plain question of basic scientific integrity. You have placed your publication's reputation in peril by publishing the NEJM Study and NEJM Editorial. I look forward to your prompt response. Please let me know if you require any more information.

Sincerely,

/s/

Steve Milloy Publisher, <u>JunkScience.com</u> 12309 Briarbush Lane Potomac, MD 20854 Tel: 301-258-9320

Cell: 240-205-1243

cc:

Committee on Publications of the Massachusetts Medical Society NEJM Editors NEJM Editorial Board

From: Bravo, Summer B [Summer.B.Bravo@xcelenergy.com]

Sent: 7/14/2017 8:08:00 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Thank you!!

Mandy,

Thank you for taking time to speak to Xcel Energy and other Texas companies regarding Region Haze today. I know my boss, Frank Prager, really appreciated you being on the call. He especially wanted to let you know that he appreciates your willingness to work with them on the issue. Do let me know if you need anything from us. I hope you have a good weekend. Thanks again Mandy!

Summer Bravo Xcel Energy | Responsible By Nature

Manager, Federal Government Affairs 701 Pennsylvania Avenue NW, Suite 250 Washington, DC 20004

P: 205.790.3679

E:summer.b.bravo@xcelenergy.com

XCELENERGY.COM

From: Wilcox, Jahan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=88FD588E97D3405D869BCAE98D391984-WILCOX, JAH]

Sent: 7/13/2017 3:15:55 PM

To: John Siciliano [jsiciliano@washingtonexaminer.com]

CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Here is our statement

"A revision of the Clean Power Plan is going through the interagency review process." - EPA spokesman, Jahan Wilcox

Jahan Wilcox

EPA

Strategic Communications Advisor

Work Cell: 202.309.0934

Work Email: wilcox.jahan@epa.gov

From: Keniece Barbee [kbarbee@corn.org]

Sent: 6/27/2017 5:19:20 PM

To: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

CC: Kyle Harris [kharris@corn.org]; David M. (Max) Williamson [maxwilliamson@williamsonlawpolicy.com]; Gunasekara,

Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Biogenic CO2

Hello Alex,

Unfortunately, Friday June 30th will not work as John is traveling, today was the only day this week he was in the office.

I am looking at what might work next week. I will be back in touch shortly. Thank you.

Regards,

Keniece Barbee

Assistant to President and C.E.O. Corn Refiners Association



1701 Pennsylvania Avenue, N.W.

Suite 950

Washington, DC 20006 Main: (202) 331-1634 Direct: (202) 534-3491 Fax: (202) 331-2054 www.corn.org

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From: Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]

Sent: Tuesday, June 27, 2017 11:44 AM **To:** Keniece Barbee <kbarbee@corn.org>

Cc: Kyle Harris <kharris@corn.org>; David M. (Max) Williamson <maxwilliamson@williamsonlawpolicy.com>;

Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Subject: RE: Biogenic CO2

Hey Keniece,

Apologies but we are going to have to cancel the meeting for today at 3:00. Mandy had a meeting with the Administrator come up she can't miss but stressed she wanted to be in on the meeting with you all. Could you do this Friday, June 30th at 12:15PM?

Alex

Alex Dominguez

Policy Analyst to the Senior Advisors to the Administrator for Air and Water U.S. Environmental Protection Agency Work: 202-564-3164 | Cell: 202-578-5985

From: Keniece Barbee [mailto:kbarbee@corn.org]

Sent: Monday, June 19, 2017 10:13 AM

To: Dominguez, Alexander < dominguez.alexander@epa.gov>

Cc: Kyle Harris kharris@corn.org; David M. (Max) Williamson maxwilliamson@williamsonlawpolicy.com

Subject: RE: Biogenic CO2

Hello Alexander,

As of right now, those attending will be:

John Bode Kyle Harris David (Max) Williamson

Thank you so much for your quick response. Have a great rest of your week.

Regards,

Keniece Barbee

Assistant to President and C.E.O. Corn Refiners Association



1701 Pennsylvania Avenue, N.W.

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Washington, DC 20006 Main: (202) 331-1634 Direct: (202) 534-3491 Fax: (202) 331-2054 www.corn.org

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From: Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]

Sent: Monday, June 19, 2017 9:40 AM

To: Keniece Barbee <kbarbee@corn.org>

Subject: RE: Biogenic CO2

Yes June 27th 3-4 works. Can you please provide me a list of attendees I can forward to security. Additionally, if there are any materials you would like Mandy to review beforehand please attach those as well.

Alex Dominguez

Policy Analyst to the Senior Advisors to the Administrator for Air and Water U.S. Environmental Protection Agency 1200 Pennsylvania Ave., N.W. Washington, D.C. 20460

From: Keniece Barbee [mailto:kbarbee@corn.org]

Sent: Monday, June 19, 2017 9:33 AM

To: Dominguez, Alexander < dominguez.alexander@epa.gov >

Cc: Kyle Harris < kharris@corn.org>

Subject: FW: Biogenic CO2

Good Morning Alexander,

Following the email below, would Mandy be available on Tuesday June 27th between 3-4:00PM? Thank you and Happy Monday!

Regards,

Keniece Barbee

Assistant to President and C.E.O. Corn Refiners Association



1701 Pennsylvania Avenue, N.W.

Suite 950

Washington, DC 20006 Main: (202) 331-1634 Direct: (202) 534-3491 Fax: (202) 331-2054 www.corn.org

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From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Thursday, June 15, 2017 1:03 PM

To: Kyle Harris <kharris@corn.org>

Cc: David M. (Max) Williamson <maxwilliamson@williamsonlawpolicy.com>; Dominguez, Alexander

<dominguez.alexander@epa.gov>

Subject: RE: Biogenic CO2

Kyle,

Thank you for the update and I look forward to meeting again soon. I've cc'd Alex Dominguez who can help organize the logistics.

Best, Mandy

From: Kyle Harris [mailto:kharris@corn.org] Sent: Tuesday, June 13, 2017 3:03 PM

To: Gunasekara, Mandy < Gunasekara, Mandy @epa.gov>

Cc: David M. (Max) Williamson < maxwilliamson@williamsonlawpolicy.com>

Subject: RE: Biogenic CO2

Importance: High

Mandy,

Your lawyers, the Department of Justice, have contacted us regarding our challenge to the Aircraft Rule, as a status report on our abeyance order is due to the DC Circuit June 28th. This presents a perfect opportunity to sit down and pick back up our conversation regarding the biogenic issue, and share with you our proposed resolution.

We would like to schedule a meeting at your convenience ahead of this June 28th deadline.

Best Regards,

Kyle

Kyle A. Harris, Esq.

Manager, Environmental Affairs/ Workplace Sofety Corn Refiners Association www.com.org

1701 Pennsylvania Ave NW Suite 950, Washington, DC 20006

Office: (202) 534-3501 Cell: (410) 924-2629



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Please consider the environment before printing this email

From: Kyle Harris

Sent: Tuesday, May 30, 2017 4:52 PM

To: 'Gunasekara, Mandy' < Gunasekara. Mandy@epa.gov>

Cc: David M. (Max) Williamson < maxwilliamson@williamsonlawpolicy.com>

Subject: RE: Biogenic CO2

Mandy,

I hope you found time to enjoy Memorial Day Weekend. I wanted to follow-up to see if there is anything else I can provide you with to resolve the biogenic issue. Again, we are hopeful for a prompt and permanent resolution to this matter without extended rulemaking and also end all litigation over the Aircraft Rule. We believe the strategy and vehicle discussed in our May 2nd meeting will be the most effective way of accomplishing this.

We would like to schedule a follow up meeting/call at your earliest convenience to further discuss. Additionally, please let me know when may be the most appropriate time to request a meeting between Biogenic CO2 Coalition member CEOs and Administrator Pruitt.

Best Regards,

Kyle

Kyle A. Harris, Esq.

Manager, Environmental Affairs/ Workplace Sofety Corn Refiners Association

www.corn.org

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From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, May 08, 2017 4:53 PM To: Kyle Harris < kharris@corn.org>

Cc: David M. (Max) Williamson < maxwilliamson@williamsonlawpolicy.com>

Subject: RE: Biogenic CO2

Thank you, Kyle. Appreciate the follow-up.

Best, Mandy

From: Kyle Harris [mailto:kharris@corn.org]

Sent: Monday, May 8, 2017 4:50 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov >

Cc: David M. (Max) Williamson < maxwilliamson@williamsonlawpolicy.com>

Subject: RE: Biogenic CO2

Mandy,

I wanted to follow up and confirm that you received the case studies that I sent last week. I can understand how busy you are- and just wanted to make sure they didn't fall unnoticed to the bottom of your email inbox! Attached here should be everything that I have sent your way (or handed in person) regarding Biogenic CO2. Additionally, please find our comments on the proposed significance rule, as it's our most thorough exposition of the legal arguments surrounding this issue.

Attached you will find:

- Letter sent to Administrator Pruitt upon his confirmation
- One-page overview of the Ag-based Biogenic CO2 issue
- Case Studies developed to frame permitting issues we face
- Comments filed on the Proposed Significance Rule
- Slide deck highlighting EPA Actions/Concerns

I hope you find this information helpful, please don't hesitate to reach out should you have any questions or concerns. Again, we look forward to maintaining an open dialogue and we hope to meet with you regarding next steps in the very near future.

Best Regards,

Kyle

Kyle A. Harris, Esq.

Manager, Environmental Affairs/ Workplace Safety Corn Refiners Association

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From: Kyle Harris

Sent: Tuesday, May 02, 2017 4:29 PM

To: 'Gunasekara, Mandy' < Gunasekara. Mandy@epa.gov>

Subject: Biogenic CO2

Mandy,

Thank you for meeting with us today. Per our discussion, I wanted to forward you some 'case studies' that we have developed that put a story behind some of the permitting issues that the members of my association, and others in the coalition, have dealt with on a consistent basis.

I look forward to maintaining a dialogue moving forward- please do not hesitate to reach out should you need any further information. We look forward to next steps in getting this issue resolved.

Best Regards,

Kyle

Kyle A. Harris, Esq.

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From: Williams, Brendan [Brendan.Williams@pbfenergy.com]

Sent: 7/14/2017 2:29:55 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RVO Question

Hey Mandy! Hope all is well. Are you around anytime today? I had a quick RVO related question for you. Please let me know if there would be a good time to call whenever you get a chance.

Thanks,

Brendan Williams
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Mortality in the Medicare Population and Chronic Exposure to Fine Particulate Air Pollution in Urban Centers (2000–2005)

Scott L. Zeger, Francesca Dominici, Aidan McDermott, and Jonathan M. Samet²

¹Department of Biostatistics, and ²Department of Epidemiology, Johns Hopkins Bloomberg School of Public Health, Baltimore, Maryland, USA

BACKGROUND: Prospective cohort studies constitute the major source of evidence about the mortality effects of chronic exposure to particulate air pollution. Additional studies are needed to provide evidence on the health effects of chronic exposure to particulate matter $\leq 2.5~\mu m$ in aerodynamic diameter (PM_{2.5}) because few studies have been carried out and the cohorts have not been representative.

OBJECTIVES: This study was designed to estimate the relative risk of death associated with long-term exposure to PM_{2.5} by region and age groups in a U.S. population of elderly, for the period 2000–2005.

METHODS: By linking PM_{2.5} monitoring data to the Medicare billing claims by ZIP code of residence of the enrollees, we have developed a new retrospective cohort study, the Medicare Cohort Air Pollution Study. The study population comprises 13.2 million participants living in 4,568 ZIP codes having centroids within 6 miles of a PM_{2.5} monitor. We estimated relative risks adjusted by socioeconomic status and smoking by fitting log-linear regression models.

RESULTS: In the eastern and central regions, a 10-µg/m³ increase in 6-year average of PM $_{2.5}$ is associated with 6.8% [95% confidence interval (CI), 4.9–8.7%] and 13.2% (95% CI, 9.5–16.9) increases in mortality, respectively. We found no evidence of an association in the western region or for persons \geq 85 years of age.

CONCLUSIONS: We established a cohort of Medicare participants for investigating air pollution and mortality on longer-term time frames. Chronic exposure to $PM_{2.5}$ was associated with mortality in the eastern and central regions, but not in the western United States.

KEY WORDS: ecologic bias, fine particulate matter (PM_{2.5}), heterogeneity, log-linear models, Medicare, mortality, prospective studies. *Environ Health Perspect* 116:1614–1619 (2008). doi:10.1289/ehp.11449 available via http://dx.doi.org/ [Online 12 August 2008]

Particulate matter (PM) air pollution is a global public health problem (Cohen et al. 2004). In developing countries, levels of airborne PM still reach concentrations at which serious health consequences are well documented (Chhabra et al. 2001; Ostro et al. 1999a, 1999b; Vichit-Vadakan et al. 2001). In developed countries, recent epidemiologic studies show evidence of continued adverse effects, even though PM levels have declined in the last two decades (Dominici et al. 2006; Jerrett et al. 2005; Laden et al. 2006; Pope et al. 2002). Increased mortality associated with higher levels of PM air pollution has been of particular concern, giving an imperative for stronger protective regulations (Bachmann 2007; Samet et al. 2006).

The evidence on PM and health shows acute and chronic effects (Pope and Dockery 2006). The London Fog of 1952 provides dramatic evidence of the risk of extremely high levels of PM air pollution over a period of about a week (Bell and Davis 2001; Bell et al. 2004; Logan 1953). Multisite time-series studies estimate associations between the risk of death and the level of air pollution shortly before death (shorter-term effects). These studies have provided evidence that far lower levels of PM than those that occur during events like the London Fog are still associated with increased risk over several days (Dominici et al.

2006, 2007; Katsouyanni et al. 1997; Lee et al. 2000: Samoli et al. 2001). Cohort studies estimate associations between time to death and exposure to air pollution over multiple years (longer-term effects). The design of these studies involves follow-up of cohorts for mortality over periods of years to decades and an assessment of mortality risk in association with estimated longer-term exposure to air pollution (Dockery et al. 1993; Hoek et al. 2002; Jerrett et al. 2005; Krewski et al. 2004; Laden et al. 2006; Pope et al. 1995, 2002). The exposure indicator in these studies was long-term average air pollution concentration, and time-varying exposures were not used, except in the most recent updates of several cohorts (Laden et al. 2006; Pope et al. 2002). Hence, inferences about the relative risks of chronic exposure derive from comparisons across study cohorts in geographic units with differing long-term PM levels.

Künzli et al. (2001) have reviewed and compared time-series studies and cohort studies. They point out that air pollution might increase a) the risk of underlying diseases leading to frailty and the shorter-term risk of death among frail persons, b) the risk of chronic diseases leading to frailty but without relation to timing of death, and c) the shorter-term risk of death among frail persons but unrelated to risk of chronic diseases. They note that time-series

studies capture items a and c but do not provide any information on item b; can be affected by confounding bias due to lack of control of time-varying covariates; and are useful to establish causation and to assess relative magnitude of effects across subgroups. On the other hand, Künzli et al. (2001) note that cohort studies capture items a and b but, in the absence of time-varying exposure, provide very little information on item c; can be affected by ecologic bias due to comparison of mortality risks across heterogeneous groups; and can be used to estimate years of life lost.

Because of their complexity and costs, only a small number of cohort studies have been conducted. The most rigorously executed, including the Harvard Six Cities Study and the American Cancer Society's Cancer Prevention Study II (CPS-II), have provided generally consistent evidence for an association between average exposure to PM air pollution over a decade and increased all-cause and cardiorespiratory mortality (Dockery et al. 1993; Laden et al. 2006; Pope et al. 1995, 2002). Both studies compared mortality rates across counties or larger geographic units with different long-term PM levels to estimate relative risks.

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Supplemental Material is available online at http://www.ehponline.org/members/2008/11449/suppl.pdf

A.D. had full access to all of the data in the study and takes responsibility for the integrity of the data and the accuracy of the data analysis. We thank C. Gerczak for editorial input.

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The authors declare they have no competing financial interests.

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The results of these studies, rather than of the time-series studies, have been used to quantify the risks of PM exposure for consideration of alternative values for the U.S. National Ambient Air Quality Standard for PM [U.S. Environmental Protection Agency (EPA) 2003]. These results have also been used to estimate the global burden of disease attributable to air pollution (Cohen et al. 2005).

Additional cohort studies are needed to confirm associations between multiyear average exposure to PM and mortality, to broaden the populations studied, to reduce the degree of geographic averaging of the exposure measure—a source of ecologic bias—and to refine the estimates by regions, age, and socioeconomic status (SES) categories across which PM exposures may vary. Toward this end, we have used data from the U.S. Medicare system, which covers nearly all persons ≥ 65 years of age in the United States. We linked Medicare mortality data to the PM_{2.5} (PM ≤ 2.5 µm in aerodynamic diameter) air pollution monitoring data to create a new retrospective cohort study, the Medicare Cohort Air Pollution Study (MCAPS), a study population of 13.2 million persons residing in 4,568 ZIP codes in urban areas having geographic centroids within 6 miles of a PM_{2.5} monitor. We have previously described this general approach and the comparability of risk estimates based on MCAPS with estimates from the Harvard Six Cities Study and CPS-II (Eftim et al. 2008). In this article, we report on the relationship between 6-year average exposure to PM_{2,5} and mortality risk in the MCAPS over the period 2000-2005. Our objective is to provide new evidence about the relative risk of death associated with chronic exposure to urban PM25 by region and age-defined subgroups.

Materials and Methods

MCAPS is a retrospective study of a cohort of 13.2 million persons ≥ 65 years of age enrolled in the U.S. Medicare system during the 6-year period 2000–2005. To create the cohort, we used the Medicare enrollment file for the study period, which provides a listing of all Medicare enrollees, along with demographic information (age, race, and sex) and ZIP code of residence. New participants enter each year as they enroll in Medicare, making this a "dynamic cohort."

More specifically, the cohort consists of all those ≥ 65 years of age who enrolled in Medicare between 2000 and 2005 with ZIP code centroids within 6 miles of a U.S. EPA PM2 5 monitoring station. Although the Social Security Administration maintains the addresses of those enrolled in Medicare, the Center for Medicaid and Medicare (CMS) provides an annual report of Medicare enrollees by ZIP code (often referred to as the enrollee file). Medicare enrollees enter the cohort on reaching their 65th birthday or on 1 January 1999 should they be ≥ 65 on that date. A small number of individuals enroll in Medicare the year after their 65th birthday, and those individuals enter the cohort on January 1 of the year of their enrollment. Individuals contribute time to the cohort until they die or are otherwise censored. Censorship occurs when individuals move to a ZIP code > 6 miles from a U.S. EPA PM_{2.5} monitoring station or are no longer reported in the enrollee file. We calculated age-specific mortality rates as the total number of deaths occurring within an age group and ZIP code divided by the total person-years contributed by that age group and ZIP code.

We obtained the date of death from the CMS. The date of death is provided to CMS

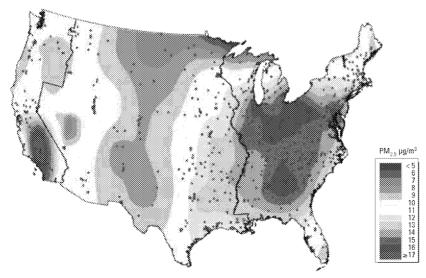


Figure 1. Map of spatially smoothed averages of PM_{2.5} during the study period 2000–2005. The map also indicates 4,568 ZIP code centroid locations (black circles) and western, central, and eastern U.S. regions.

by the Social Security Administration, rather than by the National Center for Health Statistics (NCHS), which maintains the national death certificate system. To validate the mortality data from the CMS, we compared annual age- and sex-adjusted mortality rates from the CMS with the corresponding rates calculated from NCHS data for the 250 largest counties for the year 2000. The correlation coefficient was 0.998, indicating a high level of agreement between the two sources of mortality data aggregated to the county level—the finest partition available from the NCHS—for the 1-year period.

For this article, the outcome measure is the 6-year (2000–2005) mortality rate for persons residing within each of 4,568 ZIP codes for each of three age strata: 65-74, 75-84, and ≥ 85 years of age.

We obtained the PM_{2.5} data from the U.S. EPA's AirData database (http://www.epa.gov/ oar/data/), which included 1,006 monitors for the period 2000-2005. We calculated mean annual PM25 values for the study period for all 4,568 ZIP codes with centroids within 6 miles of a monitor with > 10 months of data per year. If three or more observations were available for a month, we considered this amount of data sufficient because PM concentration was measured every sixth day at many locations. Because the focus of this study was to estimate the effect of long-term exposure to PM_{2.5}, we used a ZIP code 6-year average of PM_{2.5} as a measure of the long-term exposure to PM 25 for an individual living within a ZIP code both during the 6 years of follow-up and for some time before cohort enrollment. We omitted the 1999 PM_{2.5} data because this was the initial year of the U.S. EPA monitoring program and coverage was limited.

An advantage of MCAPS is that it comprises persons ≥ 65 years of age from nearly all of the major urban ZIP codes in the United States, and large numbers of deaths are reported within each age stratum and region. We have therefore estimated the age- and region-specific relative risks of chronic PM_{2.5} exposure for a) the eastern region of the United States, with 2,938 ZIP codes in 421 counties; b) the central region, with 990 ZIP codes within 185 counties located between the Mississippi River and the Sierra Nevada range; and c) the western United States, with 640 ZIP codes within 62 counties extending from Washington State to Southern California. Figure 1 shows the location of the 4,568 ZIP code centroids, the three geographic regions, and the spatially smoothed levels of the 6-year average PM2.5. These spatially smoothed PM_{2.5} levels should be interpreted with caution because of the sparseness of monitors in

We conducted the analyses separately within each of these three geographic regions

and for three distinct age strata: 65–74, 75–84, and ≥ 85 years of age. We also stratified initial analyses by sex and by the ZIP codes that were above and below the national median for education and income variables. Because the estimated effects for men and women and for high- and low-SES subgroups were very similar, we did not stratify the analyses reported here by sex or SES. The results of these stratified analyses are available in the Supplemental Material, Table 1 (online at http://www.chponline.org/members/2008/11449/suppl.pdf).

In estimating the effect on mortality of PM or other air pollutants, previous cohort studies and this new study rely entirely on cross-sectional comparisons of covariateadjusted mortality rates across geographic locations with different PM levels, because PM is not time varying in the analyses. Previous studies have accounted for potential confounding by a) individual-level lifestyle factors, including age and smoking, and b) area-level characteristics such as countylevel SES. The MCAPS provides individuallevel age, sex, and race data but not data on lifestyle factors. To account for SES at the ZIP code level, we used age-specific SES variables from the 2000 U.S. Census. After preliminary analysis, we selected five SES variables at the ZIP code level from the U.S. Census Bureau's Summary File 3. We restricted the analysis to those enrollees who report ZIP codes to CMS that correspond to ZIP code tabulation areas recognized by the U.S. Census Bureau. We selected two education variables, percentage of the population with a high school diploma and the percentage with a higher education degree, along with two household income measures, percentage of households living below the poverty level and median household income, as well as percentage unemployed. To create a univariate measure of SES by which to stratify the analysis, we averaged the ranks of the five SES variables for each county.

Previous cohort studies have found little effect of adjusting for self-reported smoking status (Krewski et al. 2000). Area-level differences in cigarette smoking, however, could potentially confound the association between PM_{2.5} and mortality. Because the MCAPS data have neither individual- nor area-level smoking information, we used data from the NCHS to calculate the standardized mortality ratio (SMR) for chronic obstructive pulmonary disease (COPD) for the period 1993-2002, adjusted for age, race, and sex for each county. Because the vast majority of deaths from COPD in the United States are attributable to smoking (U.S. Department of Health and Human Services 2004), we used the SMR for COPD as a surrogate indicator

Table 1. Numbers of ZIP codes, counties, monitoring sites, Medicare enrollees, person-years of follow-up, deaths, and crude death rates stratified by region and age group for MCAPS.

	U.S. region			
Characteristic	Eastern	Central	Western	All
ZIP codes	2,938	990	640	4,568
Counties	421	185	62	668
Monitoring sites	613	280	119	1,006
Persons (millions)	12.5	3.7	3.1	19.1
65-74 years	7.7	2.3	1.9	11.9
75-84 years	5.9	1.7	1.4	8.9
≥ 85 years	2.4	0.7	0.6	3.6
Person-years (millions)	61.1	17.2	14.4	92.6
65-74 years	30.2	8.8	7.3	46.3
7584 years	22.6	6.2	5.3	34.1
≥ 85 years	8.2	2.2	1.9	12.3
Deaths (millions)	3.26	0.91	0.70	4.88
65-74 years	0.77	0.22	0.16	1.66
75-84 years	1.31	0.36	0.28	1.95
≥ 85 years	1.18	0.33	0.26	1.77
Crude death rate (deaths/1,000 person-years)	53.4	53.1	48.8	52.6
65-74 years	25.6	25.3	22.4	25.0
7584 years	57.8	58.7	53.3	57.2
≥ 85 years	143.6	148.9	139.1	143.9

Table 2. Median (interquartile range) ZIP code—level SES values, median county-level COPD SMR, and median ZIP code—level PM_{2.5}, by region in MCAPS.

	U.S. region			
Characteristic	Eastern	Central	Western	All
Percent with high school degree	50.0 (41.8–56.0)	49.6 (42.1-56.1)	44.4 (37.0-51.3)	49.3 (40.8–55.6)
Percent with higher degree	28.0 (19.7-41.9)	29.2 (18.2-43.9)	31.4 (21.0-44.7)	28.7 (19.5-43.0)
Percent in poverty	10.1 (5.518.5)	12.4 (6.9-20.6)	12.0 (7.0-19.3)	10.9 (6.0-19.2)
Percent unemployment	5.1 (3.58.3)	5.3 (3.6-8.2)	6.4 (4.58.9)	5.3 (3.6-8.4)
Median income (thousands US\$)	40.6 (31.6-52.6)	37.2 (29.8-48.2)	43.9 (35.0-56.4)	40.4 (31.5-52.3)
COPD SMR	94.0 (84.0-108.7)	109.2 (95.2-101.9)	101.9 (100.5-115.0)	99.6 (88.6-113.3)
PM _{2.5} (μg/m³)	14.0 (12.315.3)	10.7 (9.8–12.2)	13.1 (10.4–18.5)	13.2 (11.114.9)

of the long-term smoking pattern of its residents. We included the county-level COPD SMR in the regression model, assigning the county value to all ZIP codes within a county.

For exposure, reliance on ZIP code-level rather than county-level PM concentration is a strength, but person-level covariate information is unavailable. To assess the potential consequences of imperfect control for confounding variables, we estimated the main models with three levels of adjustment: no control for ZIP code-level confounders, control for ZIP code-level SES variables, and control for ZIP code-level SES and county-level COPD SMRs.

Within each age stratum, we estimated the following log-linear regression models (McCullagh and Nelder 1989):

$$\log E(Y_i) = \log N_i + \beta_0 + \beta_{PM} Z_i + \beta_X X_i, \quad [1]$$

where Y_i , N_i , Z_i , and X_i are the number of deaths, number of person-years at risk, PM_{2.5}, and SES and COPD SMR for ZIP code *i*. The parameter $\beta_{\rm PM}$ denotes the log relative risk of mortality associated with a $1-\mu g/m^3$ difference in average PM_{2.5} comparing ZIP codes that are otherwise similar with respect to SES and COPD SMR.

We report results for each region by age stratum and aggregated over the three age groups. To obtain the aggregated value, we fit a single log-linear regression with a common PM effect across the strata. We use generalized estimating equations (Diggle et al. 2002) to account for the correlation among age groups from the same ZIP code.

We carried out all analyses with the statistical programs R (R Development Core Team, Vienna, Austria) and SAS (version 9.1; SAS Institute Inc., Cary, NC). Programs are available from the authors.

Results

Table 1 presents the total number of ZIP codes, PM_{2.5} monitors, study population, person-years of follow-up, number of deaths, and crude death rates for the eastern, central, and western regions. The study population comprises 19.1 million persons followed for a total of 92.6 million person-years or an average of 4.8 years per person. An individual can contribute person-time to two age categories, so the age-specific numbers of people do not add to the total size of the population. There were 4.88 million deaths, for a crude mortality rate of 52.6 deaths per 1,000 person-years. The crude mortality in the western region was lower by roughly 4 deaths per 1,000 personyears compared with the other two regions, reflecting its younger population.

Table 2 presents the median and interquartile range of the ZIP code values of average PM_{2.5} for 2000–2005, five SES variables, and COPD SMRs by region. A scatterplot matrix [see Supplemental Material, Figure 1 (online at http://www.ehponline.org/members/ 2008/11449/suppl.pdf)] provides an X-Y graph for each variable against each other variable. The proportions have been transformed to the log odds (logit) scale $\{\log[p/(1-p)]\}$ to allow them to range over the whole real line rather than in (0,1); we show SES variables on a log scale to linearize their associations with mortality and to reduce the impact of a few ZIP codes with larger average incomes. The bottom row of Table 2 shows the pattern of pairwise associations between the logit of mortality and each of the covariates or PM25. As expected, mortality has a strong negative association with each of the SES variables and a positive association with COPD SMRs.

Table 3 presents the estimated relative risks stratified by region. The MCAPS data provide evidence of an association between long-term exposure to PM_{2.5} and mortality in the eastern and central regions. For the eastern ZIP codes, we found that a ZIP code with 10 μg/m³ higher long-term average of PM_{2.5} compared with another ZIP code with comparable age distribution, SES, and COPD SMR has a 6.8% higher mortality [95% confidence interval (CI), 4.9-8.7]. For the central ZIP codes, a 10-µg/m³ increase in the longterm average of PM_{2.5} is associated with a 13.2% increase in mortality (95% CI, 9.5-16.9). For the ZIP codes in the western region, the association between PM2.5 and mortality does not achieve statistical significance. In the eastern region, adjustment for SES and COPD SMR substantially attenuates the association from 15.5% down to 6.8% per 10 µg/m³increase.

Table 4 presents the estimated region-specific log relative risks of death for each of the three age groups. In the western region, there is no evidence of an association for any of the three age groups. In the eastern and central regions, the largest effect is for the youngest group, 65- to 74-year-olds (11.4% and 20.4% per 10-µg/m³ increase, respectively). The effects are smaller for the 75- to 84-year-olds and close to 0 for the oldest group, those ≥ 85 years of age. Hence, there is no evidence of a PM effect for persons ≥ 85 years of age in any of the three regions.

We verified the sensitivity of the inferences to the specific choice of model used to control for SES and COPD mortality rate, and the results are qualitatively robust, as shown in Table 3. We also conducted analyses stratified by sex and by ZIP codes above and below the national median for education and income variables. We found that the estimated effects for men and women and for high- and low-SES subgroups were very similar. We report the results of these analyses in the Supplemental Material, Table 1 (online at

http://www.ehponline.org/members/2008/11449/suppl.pdf).

Discussion

In this article we present results from MCAPS, the largest study of potential health effects of chronic exposure to air pollution on morbidity and mortality to date, with 4.88 million deaths during more than 92 million person-years of follow-up. In comparison, a total of 20,765 deaths in the subcohort of the American Cancer Society (Krewski et al. 2000) were included in the analyses of air pollution and mortality, less than one-tenth the number in our study. However, CPS-II had an extensive set of individual-level risk factors. Given the availability of 1,006 air pollution monitors and mortality data from 4,568 ZIP codes within 668 urban counties, we have stratified the analyses geographically, choosing strata that broadly reflected differing source mixes and background disease patterns. This stratification also controls for potential confounders that vary on broad geographic scales.

Our estimated associations between long-term exposure to $PM_{2.5}$ and mortality for the eastern and central ZIP codes give results qualitatively similar to those previously published from the Six Cities Study (Dockery et al. 1993) and CPS-II (Pope et al. 2002). We previously reported the comparability of MCAPS estimates to estimates from these studies, with the MCAPS cohort restricted to the 110 and the 6 counties corresponding to the 50 metropolitan areas and the 6 counties included in CPS-II and the Six Cities Study, respectively (Eftim et al. 2008). The MCAPS relative risk estimates, based on the 4,568 ZIP

codes, are 11.4% and 20.4% per 10-µg/m³ increase in the eastern and central regions (95% CI, 8.8–14.1% and 15.0–25.8%, respectively) for the youngest age group, compared with the Six Cities Study and CPS-II values of 15.3% and 12.4%, respectively. Although the MCAPS data lack individual-level risk factor information, the MCAPS results were not qualitatively changed with inclusion of ZIP code–level or county-level SES indicators and the COPD SMR in the log-linear regression model (Tables 3 and 4). The size of the positive estimates does change with control for SES and COPD SMRs in the eastern region.

In MCAPS, we found compelling evidence of differing PM relative risks by age and geographic location. MCAPS estimates of the PM relative risk decline with increasing age category (Table 4), with no evidence of an association among persons ≥ 85 years of age. This decline may reflect the many competing causes of death for which the hazard of death increases with age. If only a subset of the competing causes is influenced by exposure to PM, then the PM-associated relative risk will reduce with age.

The MCAPS results indicate that the estimated positive association between PM_{2.5} concentration and mortality derives entirely from the eastern and central United States. A provocative finding is that the MCAPS data show no evidence of a positive association between ZIP code–level PM_{2.5} and mortality rates for the 640 urban ZIP codes in the western region. This lack of association is largely because the Los Angeles basin counties (California) have higher PM levels than other

Table 3. Percentage increase (95% CI) in mortality rate per 10-µg/m 3 increase in PM $_{2.5}$ from the log-linear regression model and stratified by three regions, and relative risks for three levels of adjustment for demographic and socioeconomic variables.

	U.S. region			
Adjustment	Eastern (n = 2,938 ZIP codes)	Central (n = 990 ZIP codes)	Western (n = 640 ZIP codes)	
Age	15.5 (13.0 to 18.0)	17.8 (13.3 to 22.2)	0.3 (-1.9 to 2.5)	
Age + SES	10.5 (8.4 to 12.5)	8.9 (5.2 to 12.5)	-0.3 (-2.2 to 1.6)	
Age + SES + COPD	6.8 (4.9 to 8.7)	13.2 (9.5 to 16.9)	-1.1 (-3.0 to 0.8)	

Table 4. Percentage increase (95% CI) in mortality rate per 10-μg/m³ increase in PM_{2.5} from log-linear regression using MCAPS regional data adjusting for three levels of demographic and socioeconomic variables.

U.S. region/adjustment	Age group (years)			
	All	6574	7584	≥ 85
Eastern				
Age	15.5 (13.0 to 18.0)	31.1 (26.8 to 35.5)	17.6 (14.9 to 20.4)	-1.4 (-3.5 to 0.8)
Age + SES	10.5 (8.4 to 12.5)	17.3 (14.6 to 20.0)	12.4 (10.1 to 14.6)	1.4 (-0.7 to 3.5)
Age + SES + COPD	6.8 (4.9 to 8.7)	11.4 (8.8 to 14.1)	8.9 (6.8 to 11.0)	1.7 (-0.3 to 3.7)
Central				
Age	17.8 (13.3 to 22.2)	39.0 (29.7 to 48.2)	17.5 (12.7 to 22.2)	2.1 (5.9 to 1.6)
Age + SES	8.9 (5.2 to 12.5)	16.5 (10.9 to 22.1)	8.8 (4.6 to 13.0)	-0.7 (-4.2 to 2.8)
Age + SES + COPD	13.2 (9.5 to 16.9)	20.4 (15.0 to 25.8)	12.0 (7.6 to 16.4)	-0.3 (-4.0 to 3.3)
Western				
Age	0.3 (-1.9 to 2.5)	6.0 (2.3 to 9.6)	0.4 (-2.0 to 2.7)	-5.2 (-7.2 to 3.2)
Age + SES	-0.3 (-2.2 to 1.6)	-2.1 (-5.0 to 0.8)	0.3 (-1.8 to 2.5)	0.9 (-0.8 to 2.7)
Age + SES + COPD	-1.1 (-3.0 to 0.8)	-1.5 (-4.2 to 1.1)	-0.2 (-2.2 to 1.9)	-0.5 (-2.5 to 1.5)

West Coast urban centers, but not higher adjusted mortality rates.

Recent multisite time-series studies of the same Medicare data also suggest that the effects of airborne PM vary by region and season. In a study of cause-specific cardiovascular and respiratory hospital admissions and daily PM_{2.5} levels in Medicare enrollees, Dominici et al. (2006) found strong regional patterns of effect across the 204 U.S. counties included during the period 1999–2002. Effect estimates for most of the cardiovascular causes were statistically significant in the eastern United States, but not in the western United States. These results were confirmed by a recent study (Bell ML et al., in press) that covered the period 2000–2005.

Previous studies of the mortality effects of chronic PM exposure or surrogates for populations in the western region have reported a range of relative risks. Most recently, Jerrett et al. (2005) investigated the PM-mortality association in a subset of the CPS-II cohort living in Los Angeles. They estimated an 11% increase in mortality per 10-μg/m³ increase $PM_{2.5}$ (95% CI, -1% to 25%), using a chronic PM exposure interpolated with a statistical model of measured PM, traffic patterns, and proximity to freeways. Abbey et al. (1999) reported a follow-up analysis of data from the Adventist Health Study (Hodgkin et al. 1984) of > 6,000 nonsmoking residents of three air basins in California-San Francisco, Los Angeles, and San Diegoenrolled in 1977. They found a nonsignificant increase in all-cause deaths of roughly 5% per 10-µg/m³ increase PM₁₀ (PM with aerodynamic diameter < 10 µm) in males and no effect in females. They reported a statistically significant association in respiratory deaths with the fraction of days > 100 µg/m³ PM₁₀ for both sexes. Enstrom (2005) tracked mortality from 1973 through 2002 in about 50,000 California participants in the first national cohort study carried out by the American Cancer Society. Using PM_{2.5} data for 11 counties in 1979-1983, he found no association across the full follow-up period and evidence of a small effect during the first decade of follow-up. Misclassification arising from the limited exposure data available may have biased this study toward the null.

Regional differences in effect estimates may be related to heterogeneity in the PM mixture. For example, higher PM_{2.5} sulfate levels are observed in the eastern United States and higher PM_{2.5} nitrate in the western United States. A recent analysis of the chemical composition of PM_{2.5} from 2000 to 2005 characterized seasonal and regional variation for > 50 chemical components (Bell et al. 2007); several other studies have investigated the chemical composition of PM in specific regions of the United States (Ostro et al., in

press; Shen et al. 2007; Subramanian et al. 2007; Vega et al. 2007; Viana et al. 2008).

The relative risks estimated in this study might be affected by ecologic bias due to using aggregate rather than individual-level air pollution exposure and confounding factors. We estimate long-term exposure by taking averages of PM_{2.5} concentrations during the study period 2000-2005 for each of the 1,006 monitors. We then assign this monitorspecific long-term average to the ZIP code of residence of each enrollees with a centroid located within 6 miles from the monitor. Bias in a cross-sectional study such as this one can occur if the difference between average personal PM exposure in a ZIP code and the average ambient value used in this study covaries with PM levels across the region after adjusting for SES and COPD SMRs. By including only ZIP codes whose centroids were within 6 miles of a monitor as the units of analysis, we used exposure values that are, on average, geographically closer to residences and thus reduced the potential for this type of ecologic bias.

In a few cohort studies, exposures have been estimated at the individual level using models and residence location (Hoek et al. 2002; Jerrett et al. 2005). This approach can assign person-specific estimates of exposure, potentially reducing the effects of exposure measurement error, depending upon the accuracy and precision of the exposure model. No cohort studies have measured personal exposure directly because this is not feasible with current technologies.

For MCAPS, the covariate information about SES was available only at the ZIP code level. Smoking data were represented by the COPD SMR for the county of residence, because the direct data on prevalence were unavailable. With the data reported here, we cannot directly evaluate the potential for ecologic bias from these terms. However, Krewski et al. (2000) have done so for CPS-II and the Six Cities Study by comparing relative risks with and without controlling for individuallevel characteristics, including smoking, exercise, education, and occupational exposures. They found little change in the PM relative risk with adjustment, suggesting that ecologic bias is negligible for those personal characteristics measured in these two cohort studies.

Despite these methodologic complexities, we have shown that a cohort can be established using Medicare participants and routine monitoring data for investigating air pollution and mortality on longer-term time frames. In our initial analyses of the MCAPS data, we confirmed the association between PM_{2.5} and mortality found in other studies but we found substantial and unexplained geographic heterogeneity in the effect of PM_{2.5} across the United States.

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From: Krider, Leah M [Leah.M.Krider@boeing.com]

Sent: 7/17/2017 7:01:00 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Automatic reply: Meeting with NEDA/CAP Briefly on July 27th Sometime Between 10-3.

I am currently out of the office on maternity leave. If you need assistance, please contact Patty Dhooge, patricia.m.dhooge@boeing.com, (843) 641-1788.

From: maxadmin@max.gov [maxadmin@max.gov]

Sent: 7/6/2017 3:57:15 AM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: MAX Password Expiration -- 4 day

Dear Amanda Gunasekara,

Your password for MAX.gov applications and partner applications that use the MAX.gov login will expire in 4 days.

To change your password now, please click:

https://max.omb.gov/maxportal/resetPasswordForm.action?email=gunasekara.amanda@epa.gov

If you require assistance please contact MAXSupport by e-mailing max.gov or calling 202-395-6860.

Thank you. The MAXSupport Team

From: Betsy Monseu [bmonseu@americancoalcouncil.org]

Sent: 7/14/2017 7:56:11 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: EPA BOSC Nominees Dennis Rackers and Ken Riddle

Mandy,

Two of my American Coal Council members, Dennis Rackers of Northern Indiana Public Service Company and Ken Riddle of Lakeland Electric, have informed me that they have contacted EPA to advise of their interest and credentials to serve on the EPA Board of Scientific Advisors (BOSC), in response to EPA's recent solicitation of prospective BOSC members.

The American Coal Council as an organization did not put forth either Mr. Rackers or Mr. Riddle for consideration (or any other candidates) and as an organization will not take an official position on them. However, I know both of them and have worked with each on various industry initiatives. Ken Riddle is currently serving a term on our American Coal Council Board of Directors. I write to you today as an individual familiar with the work, work ethic, and desire to serve of each of these BOSC candidates.

Both of these individuals have many years of experience in the power sector and with coal generation assets. They take seriously the fundamental importance of sound science and the appropriate role of science and technology to achieve environmental success. Both are highly cognizant of the obligation to serve their electricity customers and provide value in doing so. They are concerned about costly, duplicative, and administratively burdensome regulations that offer few relevant, measurable benefits.

I would be happy to have a conversation with anyone at EPA involved with the selection of nominees for the BOSC positions about either Mr. Rackers or Mr. Riddle. Please feel free to forward this email to others there.

Thanks and regards, Betsy Monseu

Betsy B. Monseu | CEO | American Coal Council

1101 Pennsylvania Ave. NW, #300 Washington, DC 20004 Office 202.756.4540 | Direct 202.805.2310 bmonseu@americancoalcouncil.org www.americancoalcouncil.org From: Clint Woods [cwoods@csg.org]

Sent: 7/19/2017 1:00:09 PM

To: Clint Woods [cwoods@csg.org]

Subject: AAPCA Releases New Resources on Regulatory Reform and Federal Advisory Committees

Today, the Association of Air Pollution Control Agencies (AAPCA) is announcing the release of a new report, *The State of Regulatory Reform: Navigating State Perspective on Clean Air Act Regulations Under Executive Order 13777*, as well as a new, public resource from AAPCA and The Council of State Governments, entitled <u>STATES AT THE TABLE</u>: <u>Engaging Energy and Environmental Opportunities with Federal Advisory Committees</u>, located at <u>www.cooperativefederalism.org</u>. More details on these projects are contained below.



THE STATE OF REGULATORY REFORM Navigating State Perspectives on Clean Air Act Regulations Under Executive Order 13777

Following the issuance of Executive Order 13777 on Enforcing the Regulatory Reform Agenda and a public comment period from the U.S. Environmental Protection Agency (EPA) on regulations that may be appropriate for repeal, replacement, or modification under the order, AAPCA compiled state and local environmental agency and association comments on our website and today releases an accompanying report, entitled *The State of Regulatory Reform*, to help navigate intergovernmental priorities for regulatory reform on Clean Air Act and cross-media issues at U.S. EPA. In particular, Clean Air Act regulations and themes discussed by at least three state environmental agencies are included, accompanied by links to illustrative comments and excerpts from state and local agencies and associations. The report is designed to help illustrate key priorities, but it does not contain details on individual comments including whether commenters specified whether regulations are appropriate to repeal, replace, modify, or maintain. Inclusion of regulations or concepts in this report does not imply endorsement from AAPCA or its member agencies.

These air quality regulations and themes include: "Once In, Always In" Policy for Major Source Maximum Available Control Technology Standards (pg. 3); Treatment of Data Influenced by Exceptional Events (pg. 4); Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (pg. 4 -5); Standards for Stationary Compression Ignition Internal Combustion Engines, Stationary Spark Ignition Internal Combustion Engines, and Reciprocating Internal Combustion Engines (pg. 5); Startup, Shutdown, and Malfunction State Implementation Plan Call (pg. 6); Title V Permitting Requirements for Air Curtain Incinerators/Destructors (pg. 7); Regional Haze (pg. 7 - 8); Nitrogen Oxides State Implementation Plan Call (NOx SIP Call)(pg. 8); Interstate Ozone Transport (pg. 9); Clean Power Plan and Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Generating Units (pg. 10); Modeling Issues & Appendix W (pg. 10 -11); Implementation of the 2015 NAAQS for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements (pg. 11); 2015 National Ambient Air Quality Standards for Ground-Level Ozone (pg. 12); Cross-Media Electronic Reporting Rule and Other Electronic Reporting Requirements (pg. 13 - 14); Monitoring Requirements (pg. 14); Other Title V Permit Review/Petition Issues (pg. 15); Guidance as De Facto Rulemaking (pg. 15); and General National Ambient Air Quality Standards & State Implementation Plan Process Improvements (pg. 16).

You can find a copy of *The State of Regulatory Reform: Navigating State Perspective on Clean Air Act Regulations Under Executive Order 13777* here.



Also today, AAPCA and The Council of State Governments (CSG) announce the public release of <u>STATES AT THE TABLE: Engaging Energy and Environmental Opportunities with Federal Advisory Committees</u>, located at <u>www.cooperativefederalism.org</u>. This joint project of CSG and AAPCA seeks to provide a comprehensive resource for state leaders from all three branches of government regarding opportunities to interact with energy and environmental agencies through federal advisory committees. In particular, this site will catalogue committees of interest at U.S. EPA, U.S. Department of Energy, National Oceanic and Atmospheric Administration, and U.S. Department of Interior, as well as provide an introduction to the Federal Advisory Committee Act. Providing information on meetings, activities, history, and openings with these influential panels can help state, local, and tribal officials navigate an alphabet soup of federal agencies, promote federalism on complex energy and environmental issues, and provide interested state officials with a potential "seat at the table" with their federal counterparts in the early stages of regulatory, scientific, or intergovernmental decision making. The cover page includes a comprehensive listing of advisory committee open nominations, upcoming meetings, and recently updated pages. Through this project, AAPCA and CSG will continuously update this page and also provide educational webinars on individual advisory committees for state and local officials.

You can find more information about *STATES AT THE TABLE*, including future opportunities to engage with energy and environmental advisory committees, at www.cooperativefederalism.org.

AAPCA is a national, non-profit, consensus-driven organization focused on assisting state and local air quality agencies and personnel with implementation and technical issues associated with the federal Clean Air Act. AAPCA represents more than 40 state and local air agencies, and senior officials from 20 state environmental agencies currently sit on the AAPCA Board of Directors. AAPCA is housed in Lexington, Kentucky as an affiliate of The Council of State Governments. You can find more information about AAPCA at: http://www.cleanairact.org or follow the Association on Twitter (aAPCA States). In addition, more information on AAPCA agencies can be found in the recently released report, http://www.cleanairact.org or follow the Association on Twitter (aAPCA States). In addition, more information on AAPCA agencies can be found in the recently released report, http://www.cleanairact.org or follow the Association on Twitter (profiles and Success Stories in Air Pollution Control.

Thanks!

Clint Woods
Executive Director
Association of Air Pollution Control Agencies
1776 Avenue of the States
Lexington, KY 40511



AAPCA ASSOCIATION OF AIR POLLUTION CONTROL AGENCIES

2017 FALL BUSINESS MEETING

September 20–22 | Doubletree by Hilton | Raleigh, North Carolina

From: Rupert Darwall Personal Email / Ex. 6

Sent: 7/11/2017 7:16:45 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: I'm downtown now. Rupert

Sent from my BlackBerry — the most secure mobile device

From: Pavlich, Dave C [Dave.C.Pavlich@p66.com]

Sent: 7/17/2017 7:00:54 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Automatic reply: Meeting with NEDA/CAP Briefly on July 27th Sometime Between 10-3.

I will be out of the office until Tuesday, July 18. I will be checking my e-mail only intermittently. For urgent matters, I can be reached by cell phone at Personal Phone / Ex. 6

From: Steve Milloy [milloy@me.com]

Sent: 6/27/2017 3:44:09 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Fwd: Request for HEI action

FYI...

Begin forwarded message:

From: Steve Milloy <milloy@me.com>
Subject: Request for HEI action

Date: June 27, 2017 at 11:32:10 AM EDT

To: Dan Greenbaum <dgreenbaum@healtheffects.org>

Cc: Robert O'Keefe < rokeefe@healtheffects.org>, Rashid Shaikh

<rshaikh@healtheffects.org>, jboogaard@healtheffects.org, acohen@healtheffects.org,

mcostantini@healtheffects.org, apatton@healtheffects.org,

dvorhees@healtheffects.org, kwalker@healtheffects.org, avanerp@healtheffects.org,

graddean@uw.edu, fdominic@hsph.harvard.edu, jeff.brook@ec.gc.ca,

foster@engr.wisc.edu, amy herring@unc.edu, alr@andrew.cmu.edu, b.hoffmann@uni-

<u>duesseldorf.de</u>, <u>irusyn@cvm.tamu.edu</u>, <u>gambrozaitis@autoalliance.org</u>,

rbabcock@hatci.com, robert.babik@gm.com, barsicnicholasj@jdcorp.deere.com,

kpittel@ford.com, gbuffali@volvocars.com, vrb8@chrysler.com, Susan Collet

<susan.collet@toyota.com>, kevin.webber@tema.toyota.com,

michael.dahl@fcagroup.com, Dea Christopher@cat.com, james.ehlmann@gm.com,

"Timothy A. French" < tfrench@clpchicago.com >, rholycro@ford.com,

Horchler Kathleen@cat.com, kaoru horie@ahm.honda.com, Takuya Ikeda <tk-

ikeda@mail.nissan.co.jp>, John Viera <jviera@ford.com>, rjorgensen@emamail.org, donald.keski-hynnila@daimler.com, matthew.kevnick@tema.toyota.com, Dan Kieffer

<a href="mailto:dan.kieffer@paccar.com, takahiro.koseki@isza.com, "Leifheit, Susanne, Dr."

susanne.leifheit@volkswagen.de, jeff.marley@volvo.com, jeff.marsee@isza.com,

mitsui@mta.jama.or.jp, jtakeda1@mazdausa.com, cnevers@autoalliance.org,

Chris.Perzan@navistar.com, drobertson@mazdausa.com, rochford Mike W@cat.com,

<u>crs2@chrysler.com</u>, <u>nakia.l.simon@chrysler.com</u>, <u>petra.sorsche@daimler.com</u>, michael.spallek@eugt.org, stuart.johnson@vw.com,

<u>jsuchecki@enginemanufacturers.org</u>, Marie Valentine <<u>marie.valentine@toyota.com</u>>, vvarjabe@jaguarlandrover.com, rich.s.wagner@cummins.com, John Wall

<jcwall322@gmail.com>, Hiroe Watanabe <watanabe hiroe@mail.nissan.co.jp>,

WebsteL@NRD.NISSAN-USA.COM, "Werthman, Alyssa (A.A.)"

, George Wolff <gwolff@airimprovement.com, "Copley, G

Bruce" <g.bruce.copley@exxonmobil.com>, Dennis J Devlin

<dennis.i.devlin@exxonmobil.com>, Greco@api.org, Howard Feldman

<feldman@api.org>, fred.reitman@shell.com, Stewart Holm@afandpa.org,

tim_hunt@afandpa.org, Ketelslegers Hans <hans.ketelslegers@concawe.org>, Paul

Greening <pg@acea.be</pre>>, Timothy Wallington <twalling@ford.com>,

brian.c.mormino@cummins.com, hideharu takemoto@n.t.rd.honda.co.jp

Hi Dan,

Since HEI funded the attached (dodgy) PM2.5 study in the upcoming NEJM, will HEI also request that study authorJoel Schwartz make his data publicly available for independent review/replication?

As you are aware, all-cause mortality and guesstimated annual exposure data is not a recipe for convincing PM2.5 epidemiology.

Best,

Steve Milloy
<u>JunkScience.com</u>
240-205-1243

From: Clint Woods [cwoods@csg.org]

Sent: 7/5/2017 2:20:46 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Invitation - AAPCA's 2017 Fall Business Meeting, September 20 - 22 in Raleigh, NC

Mandy,

Sorry to not connect yesterday, but I will be around the rest of the week (and likely until 7:00 PM today and tomorrow) if there's a convenient time to catch up.

Thanks, and I hope you had a great 4th!

Clint Woods
Executive Director
Association of Air Pollution Control Agencies
1776 Avenue of the States
Lexington, KY 40511
859.244.8040 – office
cwoods@csg.org
http://www.cleanairact.org

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, July 03, 2017 8:44 AM

To: Clint Woods

Subject: RE: Invitation - AAPCA's 2017 Fall Business Meeting, September 20 - 22 in Raleigh, NC

Hi Clint,

I will be there and am happy to provide a presentation. I'll work with the travel folks to get it on the books. Are you in today? If so, I'll give you a call later this afternoon to catch up on a few items.

Best, Mandy

From: Clint Woods [mailto:cwoods@csg.org]

Sent: Friday, June 30, 2017 1:30 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov >

Subject: Invitation - AAPCA's 2017 Fall Business Meeting, September 20 - 22 in Raleigh, NC

Mandy,

I hope all is well! I am writing to extend an invitation for you to attend and, if interested/available, provide a brief presentation during the Association of Air Pollution Control Agencies' 2017 Fall Meeting, to be held September 20 - 22, 2017 in Raleigh, North Carolina. Attached is a more detailed invitation from Sean Alteri, AAPCA's 2017 President and Director of the Kentucky Division for Air Quality.

Our members would be especially interested in hearing from you about Administration priorities and initiatives related to Clean Air Act issues (we are expecting to have a few technical presentations from career staff in OAR/Office of Air Quality Planning & Standards/Clean Air Markets Division). We are targeting the morning or afternoon of Thursday, September 21 (open session) or a session limited to local, state, and federal personnel on the morning of September 22. The meeting is closed to the press. We expect strong participation from senior officials representing more than 20 state

and local air agencies as well as U.S. EPA and other federal agencies. The meeting will be held at the Doubletree by Hilton Hotel - Brownstone - University (1707 Hillsborough Street, Raleigh, North Carolina 27605).

Please let me know if you have any questions or if there is anything I can do to help facilitate this request.

Thanks so much for your consideration.

Clint Woods **Executive Director** Association of Air Pollution Control Agencies 1776 Avenue of the States Lexington, KY 40511 859.244.8040 - office cwoods@csg.org http://www.cleanairact.org



AAPCA ASSOCIATION OF AIR POLLUTION CONTROL AGENCIES

2017 FALL BUSINESS MEETING

September 20-22 | Doubletree by Hilton | Raleigh, North Carolina

From: Seth Johnson [sjohnson@earthjustice.org]

Sent: 7/10/2017 7:03:36 PM

To: Pruitt, Scott [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=757bedfd70ca4219b6d8046f5ce5681e-Pruitt, Sco]

CC: Scott, Denise [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=c0a96960317d404da33b7e8d6d856e9b-Scott, Deni]; Minoli, Kevin

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]

Subject: Addtional petitioners seeking stay of ozone designations delay action

Attachments: EPA stay request update v.FINAL.pdf

Dear Administrator Pruitt:

Attached please find a letter supplementing the petition filed on July 5 seeking a stay, pending judicial review, of the final action taken by EPA extending the deadline for promulgating initial area designations for the 2015 ozone national ambient air quality standards ("designations delay"), by adding two additional petitioners.

Sincerely,

Seth Johnson

Seth Johnson
Staff Attorney
Earthjustice Washington, DC, Office
1625 Massachusetts Ave., NW, Ste. 702
Washington, DC 20036
T: 202.667.4500 x5245 or 202.797.5245
F: 202.667.2356

earthjustice.org



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From: Seth Johnson

Sent: Wednesday, July 05, 2017 6:46 PM

To: 'pruitt.scott@epa.gov'

Cc: 'scott.denise@epa.gov'; 'minoli.kevin@epa.gov'

Subject: Petition for stay of ozone designations delay action

Dear Administrator Pruitt:

Attached please find a petition to stay, pending judicial review, the effectiveness of the final action taken by EPA extending the deadline for promulgating initial area designations for the 2015 ozone national ambient air quality standards ("designations delay"), announced in letters to state governors dated June 6, 2017, e.g., Letter from Scott Pruitt, Adm'r, EPA, to Doug Doucey, Gov. of Ariz., at 1, available at https://www.epa.gov/sites/production/files/2017-06/documents/az_ducey_6-6-17.pdf ("EPA Delay Letter"), and in a Federal Register notice published at 82 FR 29,246 (June 28, 2017) ("Second Announcement") and titled "Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards."

Sincerely,

Seth Johnson

Seth Johnson Staff Attorney Earthjustice Washington, DC, Office 1625 Massachusetts Ave., NW, Ste. 702 Washington, DC 20036 T: 202.667.4500 x5245 or 202.797.5245 F: 202.667.2356 earthjustice.org



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July 10, 2017

E. Scott Pruitt
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Mail Code: 1101A
Washington, DC 20460

Re: Additional Petitioners Requesting for Stay Pending Judicial Review of Extension of Deadline for Promulgating Initial Area Designations Under 2015 Ozone National Ambient Air Quality Standards, Announced by Letters to State Governors on June 6, 2017, and at 82 FR 29,246 (June 28, 2017)

BY MAIL AND E-MAIL

Dear Administrator Pruitt:

On July 5, 2017, American Lung Association, Clean Air Council, National Parks Conservation Association, Natural Resources Defense Council, Physicians for Social Responsibility, Sierra Club, and West Harlem Environmental Action petitioned you to stay, pending judicial review, the effectiveness of the final action taken by EPA extending the deadline for promulgating initial area designations for the 2015 ozone national ambient air quality standards ("designations delay"), announced in letters to state governors dated June 6, 2017, e.g., Letter from Scott Pruitt, Adm'r, EPA, to Doug Ducey, Gov. of Ariz., at 1, available at https://www.epa.gov/sites/production/files/2017-06/documents/az_ducey_6-6-17.pdf, and in a Federal Register notice published at 82 FR 29,246 (June 28, 2017) and titled "Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards." The following additional parties hereby join the previously filed petition: American Public Health Association, 800 I St. NW, Washington, DC 20001; and American Thoracic Society, 25 Broadway, 18th floor, New York, NY 10004.

DATED: July 10, 2017

Respectfully submitted,

/s/Seth L. Johnson
Seth L. Johnson
Laura Dumais
David S. Baron
Earthjustice
1625 Massachusetts Ave., NW
Suite 702
Washington, DC 20036
(202) 667-4500
sjohnson@earthjustice.org
Idumais@earthjustice.org

dbaron@earthjustice.org

Counsel for American Public Health Association and American Thoracic Society

From: Rachel Fullmer [rfullmer@edf.org]

Sent: 7/10/2017 11:12:45 PM

To: Pruitt, Scott [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=757bedfd70ca4219b6d8046f5ce5681e-Pruitt, Sco]

CC: Scott, Denise [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=c0a96960317d404da33b7e8d6d856e9b-Scott, Deni]; Minoli, Kevin

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]; Peter Zalzal

[pzalzal@edf.org]; Graham McCahan [gmccahan@edf.org]; Vickie Patton [vpatton@edf.org]

Subject: Petition for Stay of Ozone Designations Delay Action

Attachments: EDF Petition.pdf

Dear Administrator Pruitt:

Attached please find Environmental Defense Fund's request to join a petition filed by Earthjustice on July 5, 2017, seeking a stay, pending judicial review, of the final action taken by EPA extending the deadline for promulgating initial area designations for the 2015 ozone national ambient air quality standards.

Sincerely,

Rachel Fullmer

Rachel Fullmer

Legal Fellow
U.S. Climate Legal & Regulatory Advocacy

Environmental Defense Fund

2060 Broadway, Suite 300 Boulder, CO 80302 T 303 447 7208

rfullmer@edf.org

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E. Scott Pruitt
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Mail Code: 1101A
Washington, DC 20460

ELECTRONICALLY TRANSMITTED

Re: Environmental Defense Fund Joining Request to Stay Pending Judicial Review Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards, 82 Fed. Reg. 29,246 (June 28, 2017)

Dear Administrator Pruitt:

On July 5, 2017, American Lung Association, Clean Air Council, National Parks Conservation Association, Natural Resources Defense Council, Physicians for Social Responsibility, Sierra Club, and West Harlem Environmental Action petitioned you to stay, pending judicial review, the effectiveness of the final action taken by EPA extending the deadline for promulgating initial area designations for the 2015 ozone national ambient air quality standards ("designations delay"), announced in letters to state governors dated June 6, 2017, e.g., Letter from Scott Pruitt, Adm'r, EPA, to Doug Ducey, Gov. of Ariz., at 1, available at https://www.epa.gov/sites/production/files/2017-06/documents/az_ducey_6-6-17.pdf, and in a Federal Register notice published at 82 Fed. Reg. 29,246 (June 28, 2017) and titled "Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards." On July 10, 2017, the American Public Health Association and American Thoracic Society wrote you indicating their intention to join the stay petition.

Environmental Defense Fund (EDF) hereby joins the July 5 petition. As explained in the petition, EPA's decision to delay the ozone designations failed to comply with statutory requirements and was irrational. EPA's action harms EDF members who live, work, and recreate in areas that will now evade nonattainment requirements for ozone because of EPA's designations delay. You should immediately stay that unlawful and harmful action.

DATED: July 10, 2017

Respectfully submitted,

Peter Zalzal
Graham McCahan
Rachel Fullmer
Environmental Defense Fund
2060 Broadway, Suite 300
Boulder, CO 80302
Telephone: (303) 447-7214
pzalzal@edf.org
gmccahan@edf.org
rfullmer@edf.org

From: Mason Hunt [mhunt@alec.org]

Sent: 7/18/2017 7:55:31 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Registration Confirmed - 44th ALEC Annual Meeting



Dear Mandy:

Your registration has been confirmed. Thank you for registering to attend the 44th ALEC Annual Meeting. Please save this email for future reference.

Still need to make your hotel reservation? Make your reservation now.

Check our meetings website often for updates on agenda news!

Event: 44th ALEC Annual Meeting Attending: Mandy Gunasekara

Number in Party: 1 Time: 8:00 AM

Date: Wednesday, July 19, 2017 Location: Hyatt Regency Denver

Address: 650 15th St, Denver, Colorado 80202, USA

Confirmation Number: PRNKNB7YCFS

Registration Type: Speaker Current Registration:

Degistration information:

Registration Information:		
Registration frame		
Mandy Gunasekara	Single-Day Pass (Speaker)	
Additional Informatio		
Mandy Gunasekara	Is this your first time attending an ALEC event?	
	Yes	
	Would you like to receive SMS Push Notifications?	
	No	

Name of your ALEC staff contact

Amy Anderson

Please select the date you will be speaking.

19-Jul-2017

Please select which Task Force you will be speaking.

Energy, Environment and Agriculture

What will be the topic of your speech? Please be specific.

EPA

Will you have any special audio or video needs during your presentation?

No



Click here to view the event summary

We look forward to seeing you there! Sincerely,

Mason Hunt, MPA Events Coordinator mhunt@alec.org



If you no longer want to receive emails from Mason Hunt, please Opt-Out





ROGER S. PENSKE

Chairman

April 19, 2017

Mr. Scott Pruitt
Administrator
United States Environmental Protection Agency
William Jefferson Clinton Building North
1200 Pennsylvania Ave., NW
Washington, DC 20460

Dear Administrator Pruitt:

The Penske organization has a significant presence in Tennessee. Penske Truck Leasing and Penske Logistics have 68 corporate locations and licensees in Tennessee employing over 400, and Penske Automotive Group operates a retail automotive location in Memphis and employs 143.

In addition, Premier Truck Group operates a retail heavy-duty truck dealership in Knoxville, employing 85 people. A substantial portion of its annual business is conducted with Fitzgerald Glider Sales of Byrdstown, Tennessee, through the sales of glider kits and assembly parts for their operations. We have five employees within our business dedicated to the sales, supply and management of commerce between our two organizations.

In calendar years 2014, 2015 and 2016, Premier Tuck Group achieved sales of over \$110 million with Fitzgerald Glider Sales. Fitzgerald is our largest customer in Tennessee, and an enforcement of the Phase 2 GHG regulations would be detrimental to our business, our employees and our community.

We appreciate your consideration to repeal the GHG Phase 2 regulations relative to the sale and assembly of Glider Kits.

RSP/cdg

CC:

T. Fitzgerald

R. Shearing

From: Marc Armstrong [marmstrong@ohioec.org]

Sent: 6/30/2017 1:01:15 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Ohio's Electric Cooperatives - Annual Meeting

Attachments: EPA Administrator Pruitt Speaker Request Form.docx

Mandy,

Great to see you yesterday at the ACCCE Board meeting. Hope things are going well in your new role.

As I mentioned, we have invited Administrator Pruitt to attend and speak at our Annual Meeting in Columbus, OH on August 15. Attached is the request form that we have submitted. Anything you can do to assist you be greatly appreciated. I know our CEOs and Board members would love to hear about the good work being done at EPA.

Thanks,

Marc



ADMINISTRATOR PRUITT SPEAKER REQUEST FORM U.S. Environmental Protection Agency

Deadline for Acceptance: July 1, 2017 **Event Title:** Ohio's Electric Cooperatives Summer Conference & Annual Meeting **Speech Date:** Tuesday, August 15, 2017 Is the Above Date Flexible: Speech Time & Duration: 1 Hour including Q&A, Time Flexible Speaker Requested: Administrator Scott Pruitt Would You Consider a Surrogate: Yes **Event Location:** Hilton Polaris 8700 Lyra Dr. Columbus, OH 43240 (614) 885-1600 Main Ballroom **Open Press/Closed Press:** Closed press Is Event Webcast/Recorded/Transcribed: Recorded if Permitted by Speaker Purpose of the Event: Annual Meeting & educational forum for directors, CEOs and key employees for Ohio's 24 electric distribution cooperatives. Speech Topic: Update on EPA Regulations affecting the electric generation industry and Buckeye Power, Inc., the power supplier for Ohio's Electric Cooperatives. **Requested Presentation Format:** Keynote, followed by Q&A **Dress Code: Business Casual** 1 Hour including time for Q&A **Speech/Presentation Duration: Teleprompter Available:** No Hand Held or Lavaliere Mics Available, Stage with 250 seats setup Microphone / Room Setup: classroom style **Event Sponsor:** None Relationship to the EPA: Buckeye Power, Inc., the power supplier for Ohio's Electric Cooperatives, and the 24 electric distribution cooperatives are subject to the regulations adopted by the EPA. In Development - TBD **Event Agenda/Program: Honorable Guests Attending:** TBD/None

Page [PAGE] of [NUMPAGES]



ADMINISTRATOR PRUITT SPEAKER REQUEST FORM U.S. Environmental Protection Agency

Notable Federal, State or Local Appointed or Elected officials attending:	TBD/None		
Individual Introducing Administrator:	Doug Miller, Vice President of Statewide Services		
Person to contact for speechwriting purposes:	Doug Miller, Vice President of Statewide Services		
	dougmiller@ohioec.org 614-430-7804		
	937-597-6948		
Person to contact for media purposes:	Same as Above		
Origin of Invitation:	Marc Armstrong, Director of Government Affairs		
Origin of invitation.	marmstrong@ohioec.org		
	800-282-6962		
	614-893-4042		
Day of Event Point of Contact:	Same as Above		
Security Contact:	Same as Above		
Is the organization or host of the event a registered 501(c)(3), (4), or has a 527 Political Action Committee (PAC): Ohio Rural Electric Cooperatives, Inc. is a 501(C)(12). We do have a registered PAC named the Ohio Action Committee for Rural Electrification, which is also affiliated with the National ACRE PAC.			
Will there be a presentation of a "gift" to the Administrator?	No		
If so, what is the US currency value of the gift?			
Will a meal be provided, if so what is the US currency value?	No		
Please return this form completed to scheduling@epa	.gov and Sydney Hupp (hupp.sydney@epa.gov).		

From: Sturgeon, Lauren [LSturgeon@cobank.com]

Sent: 6/28/2017 7:30:50 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Tim Lust - National Sorghum Produers

Hey Mandy!

First of all, congratulations on the new gig! I hope things are going well down there! I can only imagine how busy you are, as us ag folks have been talking about the EPA non-stop.

I ran into my dear friend Tim Lust, of the National Sorghum Producers, earlier today and he asked me if I had worked with you while at EPW. He told me that you all had a meeting tomorrow, so I just wanted to let you know he is a great guy and very intelligent! (This is a side note, I actually turned down a job that he offered me so I could work at EPW, but I would do anything for him and his organization.)

Anywho, he is a great guy, with a lot of initiative and he is extremely well respected in the agriculture world, so please let me know if I can ever be of assistance to you and him with whatever!

Hope you and the family are doing well, and don't hesitate to reach out!

Lauren

Lauren E. Sturgeon

Government Affairs Manager **CoBank** | 50 F St. NW, Washington, D.C. 20001 C 405.205.3433 | T 202.650.5863

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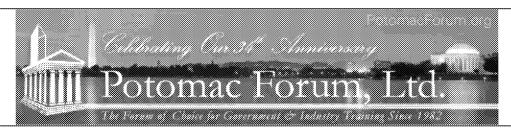
From: CyberSecurity Workshop [PotomacForum@GovCyberSecurity.org]

Sent: 7/6/2017 7:19:40 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: [SPAM] Register for July 12 Workshop: Government Cybersecurity Workshop



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Please Review and Forward to
Your Government Executives, Managers and Staff
Who Play a Part in Agency Cyber Security Management or Implementation
- CIOs, CISOs, IGs, Program Managers

Potomac Forum Training Workshop

Implementing the President's Cybersecurity Executive Order (EO) Training Workshop

A "How To" Workshop to Implement the Requirements of the EO and its Reporting Requirements

Date: Wednesday, July 12, 2017

Sponsored by:

Potomac Forum, Ltd.
the leader in high quality training since 1984

www.PotomacForum.org (703) 683-1613 info@PotomacForum.org

Location of Workshop:
Willard InterContinental Hotel
Washington, D.C.

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Workshop for Government & Industry Partners
Press is Not Permitted to Encourage
Candid Discussion in our Learning Envi ronment

Government Speakers:

NEW SPEAKER JUST ANNOUNCED:
Jaime Noble, CAP, CISSP
Deputy Director for IT Security &
Deputy Chief Information Security Officer
Department of Justice

Keynote: Dr. Ron Ross

The Cybersecurity Executive Order:
Building the Next Generation
Risk Management Framework and Controls
NIST Fellow
Author of the NIST Risk Management Framework (RMF) and
Numerous NIST Cyber Security Publications

Jarvis Rodgers
Information Technology Audit Director
Office of Inspector General
Department of Health and Human Services (HHS)

Kirit Amin
Chief Information Officer (CIO)
U.S. International Trade Commission (USITC)

Additional Government Speakers are being approved for participation by their Agencies

Potomac Forum Workshops are 100% educational programs and not sales or marketing events!

Overview:

This workshop will focus on the President's EO on Cybersecurity and discuss its requirements. A key requirement is the implementation of NIST's Cybersecurity Framework (CSF). We will present an understanding

of the CSF and NIST's Risk Management Framework (RMF) which is a key component of the CSF. The CSF and RMF are critical for the federal government in its efforts to mitigate risk within enterprise information systems. The workshop will provide detailed guidance on the integration of the CSF and RMF into a holistic Cybersecurity solution. In addition, the workshop will address the EO reporting requirements for the first 90-day report and the other reports identified in the EO.

Hear from industry experts and government officials tasked with implementing robust cybersecurity and risk management strategies along with learning how NIST's CSF and RMF can be effectively implemented to reduce the risk of cyber-attacks. Listen to a government panel of CIOs and CISOs to understand the challenges they are facing on a day-to-day basis and how implementation of NIST's CSF and RMF helps them identify the risks and what it takes to mitigate those risks. Gaining insights from the panel and peer interactions at the workshop should be invaluable in implementing the President's EO and moving the needle forward in improving federal cybersecurity.

What You Will Learn:

- The approach used by the NIST RMF
- The value of the integration of the NIST RMF with the NIST CSF
- Development of agency Risk Management Strategies
- Changes in federal information system authorization requirements and guidelines
- Guidance into what agencies can expect from the NIST RMF and new CSF processes
- Importance of Risk Assessments (RA), Security Control Assessments (SCA), and Security Testing & Evaluation (ST&E)
- Security control categorization and how it is used to manage risk
- NIST SP 800-53A, Guide for Assessing the Security Controls in Federal Information Systems and Organizations: Building Effective Security Assessment Plans; NIST SP 800-37 Rev. 1 Guide for Applying the Risk Management Framework to Federal Information Systems: A Security Life Cycle Approach and NIST SP 800-39 Managing Information Security Risk
- Reporting Requirements for the Executive Order
- Best Practices for Responding to the Executive Order

Why You Should Attend

- Review the key steps within the NIST RMF and CSF
- Obtain practical knowledge of how NIST RMF and CSF are incorporated into information system security
- Gain insight into conducting and implementing NIST RMF and CSF in your organization
- Collect information on how NIST frameworks can be leveraged to enhance the security of your organization
- Learn how risk management and cybersecurity are essential for regulatory compliance
- Learn from risk management, security and OIG colleagues in Federal, State and Local Governments
- Learn how other Agencies are responding to the EO

Who Should Attend:

- CIOs, CISOs and Staff
- IT security and risk management practitioners
- IGs and Staff
- Program Managers responsible for risk management
- Government Employees who want to better understand organization risk management
- Executives who oversee risk management for the government
- All government executives, managers and staff who need to better understand risk management and implementing the President's Executive Order

CEUs Awarded Upon Workshop Completion

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Press is NOT Invited to Register or Attend

"Send-A-Team" Registration Fees

No Press to Promote Candid Discussion

Registration and Information:

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This email was sent by: **Potomac Forum, Ltd.** 400 North Washington Street , Alexandria , Virginia, 22314 , USA From: Prabhu Chandar [pchandar@eenews.net]

Sent: 7/6/2017 7:13:35 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d

Subject: ACCESS CODES - E&E Daily, Energywire, Climatewire, Greenwire, E&E News PM!

E&ENEWS

Dear Mandy,

Prabhu Chandar here with E&E News.

The US EPA has subscription access to *E&E Daily*, *Energywire*, *Climatewire*, *Greenwire*, and *E&E News PM*!

To access the publications, click the link in each email alert, or go to https://www.eenews.net/ and select the story or publication you wish to read.

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Username: gunasekara.mandy@epa.gov

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Prabhu Chandar Sales Director 202-446-0457 (office) 202-737-9323 (fax) pchandar@eenews.net



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From: maxadmin@max.gov [maxadmin@max.gov]

Sent: 7/7/2017 12:59:50 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Set/Reset MAX Password Request

Dear Amanda Gunasekara.

You have requested the setting/resetting of your MAX.gov account password on the MAX.gov Manage Password page.

To set your password, click on the Password Reset Link below within 2 hours (i.e. by 10:59 AM, July 07, 2017).

PASSWORD RESET LINK (you may need to copy and paste this link into your browser): https://max.gov/chpw?token=07946c5c&email=gunasekara.amanda@epa.gov

Then follow the instructions on the webpage.

Notes:

- If it is already past 10:59 AM, July 07, 2017, please click on the link below to obtain an updated password set/reset email.

- If your email system has removed the above Password Reset Link, please follow the instructions in the Alternative Password Reset Service Section below.

For assistance please contact the MAX Support team at maxsupport@max.gov or 202-395-6860.

Thank you The MAX Support Team

---- Alternative Password Reset Service Section ----

If your Email system has completely removed the MAX Password Reset Link referenced above from this Email, you may still set your password using the following simple procedure:

1. Copy (ctrl+c) the following Alternate Password Reset Key into your clipboard:

Alternate Password Reset Key: 07946c5c

- 2. Paste it into the appropriate place on the Alternate Password Reset form
- If the webpage is no longer open you may reopen it by copying/pasting or typing the following URL shortcut as the browser URL address: "max.gov/altreset"
- 3. Then click the SUBMIT button and follow the instructions on the webpage.

(msg 120)

From: EPA ENERGY STAR [Televisions@energystar.gov]

Sent: 7/18/2017 7:10:39 PM

To: Doug Johnson [DJohnson@cta.tech]

Subject: ENERGY STAR Television Version 8.0 Final Draft Specification

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Dear ENERGY STAR® Televisions Stakeholders,

The U.S. Environmental Protection Agency (EPA) has released the ENERGY STAR Televisions V8.0 Final Draft Specification for stakeholder review. The <u>cover letter</u> and <u>Final Draft Specification</u> are now available. All other associated documents can be found on the <u>ENERGY STAR TVs product development webpage</u>.

Questions may be directed to Verena Radulovic, EPA, at <u>Radulovic.Verena@epa.gov</u> or 202-343-9845 or Emmy Feldman, ICF, at <u>Emmy.Feldman@icf.com</u> or 202-862-1145.

Thank you for your support of the ENERGY STAR program.

This message was sent to you on behalf of ENERGY STAR. Each ENERGY STAR partner organization must have at least one primary contact receiving e-mail to maintain partnership. If you are no longer working on ENERGY STAR, and wish to be removed as a contact, please update your contact status in your <u>MESA</u> account. If you are not a partner organization and wish to opt out of receiving e-mails, please contact <u>EnergyStar Products@energystar.gov</u>. Unsubscribing here means that you will no longer receive program-wide or product-specific e-mails from ENERGY STAR.

Walker, Ryan [RYAN.WALKER@bp.com] From:

Sent: 7/5/2017 10:24:45 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Follow-Up

Hi, Mandy!

Just wanted to see if you had time to chat briefly around 9:30am tomorrow as a follow-up to our Tier 3 conversation?

Thanks a ton!

Ryan

Ryan P. Walker | Senior Director, Federal Government Affairs | BP America, Inc.

1101 New York Avenue NW, Suite 700 | Washington, DC 20005

Direct: (202) 346-8542 | Cell: (202) 907-4829 | Email: Ryan.Walker@bp.com

From: Toomey, Jon [Jon.Toomey@mail.house.gov]

Sent: 7/14/2017 1:41:50 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Thank you

Sounds great. Looking forward to it.

Best, Jon

Ion Toomey

Legislative Counsel

Jon.Toomey@mail.house.gov

Congressman Diane Black (TN-06)

1131 Longworth HOB

Washington, DC 20515

202.225.4231 (phone) | 202.225.2887 (fax)

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Thursday, July 13, 2017 10:06 PM

To: Toomey, Jon **Subject:** Re: Thank you

Thanks, Jon. It was great connecting with you and your boss today. Thanks for your work as well. I'll keep you looped in on the timing so your comms team can coordinate with ours.

Best, Mandy

Sent from my iPhone

On Jul 13, 2017, at 6:01 PM, Toomey, Jon < Jon. Toomey@mail.house.gov> wrote:

Mandy,

Thank you for all of your hard work on this issue. I'll be sure to have the Chairman pass a note to Administrator Pruitt about your efforts!

Looking forward to the presser.

Thanks!! Jon

m. (202) 510-2934

Jon Toomey

Legislative Counsel

Jon.Toomey@mail.house.gov

Congressman Diane Black (TN-06)

1131 Longworth HOB Washington, DC 20515 202.225.4231 (phone) | 202.225.2887 (fax)

From: Ray Bucheger [Ray@federalrelations.com]

Sent: 7/21/2017 6:13:39 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Betsy Spomer [espomer@vereseninc.com]

Subject: Jordan Cove Follow-Up

Mandy:

Thanks again for taking the time to meet with Betsy and me. We appreciate your willingness to engage on this issue.

Our team is going to request a meeting with Michelle Pirzadeh back in the Region – we will let you know when that has been scheduled and report back to you after the meeting.

I have copied Betsy on this email so that she can get you the information you requested so that you can work this on your end, including 1) the status of our request to Oregon DEQ; 2) the overall chronology of events; and 3) information about Region 3 and Region 6 treatment of LNG facilities.

Please let us know if there is anything else we can provide.

Ray

Ray Bucheger

Pioneer Group & FBB Federal Relations Affiliated with Lindsay Hart, LLP 1120 G Street, NW Suite 1020 Washington, DC 20005 office: 202-783-3333

office: 202-783-3333 cell: 202-236-5101

ray@federalrelations.com

From: Kate Fay [Kate.Fay@nblenergy.com]

Sent: 7/6/2017 6:06:30 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: Re: Meeting on July 20?

Perfect, will do. thank you.

Sent from my iPhone

Kate Fay 303.910.2830 (cell)

On Jul 6, 2017, at 12:01 PM, Gunasekara, Mandy Gunasekara.Mandy@epa.gov wrote:

Hi Kate,

Please work with Alex to confirm a time.

Best, Mandy

From: Kate Fay [mailto:Kate.Fay@nblenergy.com]

Sent: Thursday, July 6, 2017 12:08 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>

Subject: Meeting on July 20?

Hi Mandy:

Sorry to bother you again...we are still trying to get on your calendar later this month. The times below work, but we could also meet Friday morning after 10:30.

Thanks, Kate

Hi Mandy:

My VP of Environmental (Bob Bemis) and I would like to come meet with you either during the morning (before 11 am) or after 1:30 on July 20 if that would work? Topic: Ozone and OOOOa. Also wondering if it might make sense for Georg Sugiyama to attend since we would like to put a few "mechanical" ideas you regarding ozone. Just a thought.

Thanks for your consideration.

Kate

Please note my new email address: kate.fay@nblenergy.com

Kate Fay Manager, Environmental and Regulatory Policy Noble Energy, Inc. 1625 Broadway, Suite 2200 Denver, Colorado 80202

303.910.2830 (cell)

720.587.2397 (office)

From: Leslie Sue Ritts [lritts@rittslawgroup.com]

Sent: 7/18/2017 7:33:24 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: dominguez.alex@epa.gov

Subject: Re: Meeting with NEDA/CAP Briefly on July 27th Sometime Between 10-3.

That's dynamite Mandy.

I'm on a plane that eventually will get to Chicago but maybe not by 5. But for sure I will touch base with ALEX tomorrow.

Leslie

Sent from my iPhone

On Jul 17, 2017, at 3:00 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Happy to – I've cc'd Alex Dominguez who can help confirm the logistics.

From: Leslie Sue Ritts [mailto:lritts@rittslawgroup.com]

Sent: Monday, July 17, 2017 2:36 PM

To: Gunasekara, Mandy < Gunasekara, Mandy@epa.gov >; GUNASEKARA. (MANDY@EPA.gov)

<MANDY@EPA.gov>

Cc: al_collins@oxy.com; Andy Eckstein, Esq. <eckstein.ta@pg.com>; Anu Kunapuli

<anu.kunapuli@merck.com>; Barbara Bankoff (babankoff@gmail.com) <babankoff@gmail.com>;

Catherine (EHLHARDT_CATHERINE_R@LILLY.COM) < EHLHARDT_CATHERINE_R@LILLY.COM>; Dana

Wood (dana.wood@bp.com) <dana.wood@bp.com>; Dave C. Pavlich <Dave.C.Pavlich@p66.com>;

david.l.shanks@boeing.com; DAVID VAN HOOG <David.VanHoog@bp.com>; David W. Moore

(david.w.moore@boeing.com) <david.w.moore@boeing.com>; Don Robin <drobin@lilly.com>; Donna

Carvalho (Donna.H.Carvalho@p66.com) < Donna.H.Carvalho@p66.com>; Elizabeth L. DuSold

<e.dusold@lilly.com>; Elliott Heide (elliott_heide@oxy.com) <elliott_heide@oxy.com>; Hannah Valmont

<valmonth@kochind.com>; Hermanson, Robert W <<u>robert.hermanson@bp.com</u>>; Jen Kreusch

<kreusch_jennifer lee_maund@lilly.com>; Jennifer Cogswell <COGSWELJ@kochind.com>; Jessica

LGonzalez <Jessica.Gonzalez@bp.com>; Kaufmann, Robert C. <Robert.Kaufmann@kochps.com>; Ken

Comey (Kenneth.Comey@bp.com) < Kenneth.Comey@bp.com>; Kristin Marshall

<kristin.b.marshall@boeing.com>; Lara Mathews (lara.mathews@invista.com)

<lara.mathews@invista.com>; Leah M. Krider (Leah.M.Krider@boeing.com)

<Leah.M.Krider@boeing.com>; Lomax, Steve <Steve.Lomax@kochps.com>; Maria Galloway

<maria_galloway@merck.com>; Matthew L. lwiki (matt.iwicki@boeing.com)

<matt.iwicki@boeing.com>; Maxine Dewbury <dewbury.md@pg.com>; Melissa Antoine

(melissa.antoine@gapac.com) < melissa.antoine@gapac.com >; Michael Curtis

(MICHAEL.CURTIS@GAPAC.com) < MICHAEL.CURTIS@GAPAC.com>; Michael R. Van Winkle MS CIH

<mvw@lilly.com>; Myles P Culhane <<u>Myles Culhane@oxy.com</u>>; Nate Orosz (<u>orosz.ns@pg.com</u>),

<orosz.ns@pg.com>; Peter Pagano <peter.a.pagano@boeing.com>; Rochelle Jozwiak

<rochelle.jozwiak@invista.com>; RYAN GESSER (Ryan.Gesser@gapac.com) <Ryan.Gesser@gapac.com>;

Sturla Olsen (sturla.olsen@boeing.com) <sturla.olsen@boeing.com>; Tammy Wyles

<trwyles@gapac.com>; Zufall, Maria J. <Maria.Zufall@gapac.com>

Subject: Meeting with NEDA/CAP Briefly on July 27th Sometime Between 10-3.

Per my phone message this am Mandy, I wondered if you would have time to meet with NEDA/CAP members on July 27th – next Thursday. We can come to your offices or you can come to us (Occidental

Petroleum or Koch offices probably). The agenda would be very general and policy-oriented, an informal meet and greet with a discussion of our respective priorities.

NEDA/CAP's members are US manufacturers and include Alcoa, Boeing, BP America, Eli Lilly, Georgia Pacific, Invista, Koch Public Sectors, Merck, Occidental Petroleum, Phillips 66 and Procter & Gamble. (Intel might want to join as well.)

Best wishes,

<image001.png> Leslie Sue Ritts Ritts Law Group, PLLC 620 Fort Williams Parkway Alexandria, VA 22304 (703) 823-2292 (office) (703) 966-3862 (cell) Iritts@rittslawgroup.com

Please note new email address

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From: Sasha Forsen, Green Plains Inc. [Sasha.Forsen@gpreinc.com]

Sent: 6/29/2017 2:12:38 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Shenandoah 10 Year Anniversary

Hi Mandy,

I wanted to touch base about getting Administrator Pruitt out to our Shenandoah location. It also just so happens to be gearing up for its 10 year anniversary in August! We plan to have some sort of event with the community and our customers, and thought this could be a good opportunity to arrange a visit. Let me know your thoughts.

Thank you!

Regards,

Sasha Forsen | Public Relations Manager

phone: 402.315.1670 | email: Sasha.Forsen@gpreinc.com

Green Plains Inc.

1811 Aksarben Drive | Omaha, NE 68106

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From: Deeley, Blake [Blake.Deeley@mail.house.gov]

Sent: 7/20/2017 8:32:03 PM

Subject: Moving On

Friends,

Tomorrow is my last day with Rep. McKinley. It has been a real honor working for the Congressman and a real pleasure working with you.

But, I am not going far. Next Monday (7/24) I will be being working for Secretary Zinke at the Department of the Interior.

I will be sure to send out my new contact information when I get settled, but in the meantime don't hesitate to contact me at Personal Matters / Ex. 6 | f you need anything.

Best,

-Blake

Blake Deeley | Policy Advisor Congressman David B. McKinley (WV-1) 2239 Rayburn House Office Building Washington, DC 20515 (202) 225-4172

From: Dan Greenbaum [DGreenbaum@healtheffects.org]

Sent: 7/12/2017 1:23:20 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Robert O'Keefe

[ROKeefe@healtheffects.org]; Michael Stafford (MStafford@ajw-inc.com) [MStafford@ajw-inc.com]

Subject: RE: A Chance to Meet?

Thanks Mandy...

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Wednesday, July 12, 2017 8:56 AM

To: Dan Greenbaum

Cc: Bolen, Brittany; Robert O'Keefe; Michael Stafford (MStafford@ajw-inc.com)

Subject: RE: A Chance to Meet?

Hi Dan,

Thank you for the outreach and apologize for the delayed response. I've connected Michael with Alex Dominguez in our office who will help set up the meeting.

Best, Mandy

From: Dan Greenbaum [mailto:DGreenbaum@healtheffects.org]

Sent: Monday, July 10, 2017 7:48 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>

Cc: Bolen, Brittany < bolen.brittany@epa.gov >; Robert O'Keefe < ROKeefe@healtheffects.org >; Michael Stafford

(MStafford@ajw-inc.com) < MStafford@ajw-inc.com>

Subject: A Chance to Meet?

Dear Mandy:

I know that Michael Stafford of AJW has been working with you to try to set up a time for our Vice President Bob O'Keefe and me to meet with you about an exciting partnership that HEI is initiating with industry that should be a very good opportunity for the agency. We understood from Michael that you had been thinking the meeting might include Samantha and other key staff there...

It turns out that Bob and I will be at EPA on Friday to see Richard Yamada and others in ORD (on a number of questions about PM air pollution) and wondered if there is any chance we could schedule the meeting with you and others while we are there (e.g. on Friday morning or later Friday afternoon)?

We know you have many, many irons in the fire just now – but very much appreciate your trying to make this work!

Best Dan

Dan Greenbaum, President Health Effects Institute www.healtheffects.org O: +1 617 488 2331 C: +1 617 283 5904

From: Hilary Moffett [moffetth@api.org]

Sent: 6/29/2017 2:08:13 PM

To: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

CC: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]; Gunasekara, Mandy

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Lewis, Josh

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]

Subject: Re: Methane Meeting request

Thank you Emily and Alex.

Let's schedule 10 am on the 18th for one hour. If we can confirm that, I will see which members of our team will be available to attend and can get you a list of attendees. I will also send you relevant documents as soon as possible.

Thanks again,

Hilary

On Jun 29, 2017, at 9:28 AM, Dominguez, Alexander < dominguez.alexander@epa.gov > wrote:

Mandy is open during that window as well so works on our end. Please send the invite to Brittany Bolen and Samantha Dravis as well so they are aware.

Hilary – I defer to you on how much time you think is necessary. Also, if you can let Emily know who will be attending from your side and any other information or materials that should be reviewed beforehand.

Appreciate your help in setting this up Emily. Anything else just let me know.

Alex

Alex Dominguez

Policy Analyst to the Senior Advisors to the Administrator for Air and Water U.S. Environmental Protection Agency Work: 202-564-3164 | Cell: 202-578-5985

From: Atkinson, Emily

Sent: Thursday, June 29, 2017 8:56 AM

To: Dominguez, Alexander < dominguez.alexander@epa.gov >

Cc: Hilary Moffett <moffetth@api.org>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Lewis,

Josh <<u>Lewis.Josh@epa.gov</u>>

Subject: RE: Methane Meeting request

Hi Alex and Hilary,

OAR is happy to host this on the 5th floor and to send the meeting invite. Our list of participants is outlined below.

The best window for us is the morning of Tuesday, July 18 between 9am - 12pm. Please let me know how long you are looking to schedule this for and if there is a specific time in this window that works best for you, as well as if anyone else besides Mandy from your office needs an invite.

OAR, OAQPS and OGC: Sarah Dunham, Josh Lewis, Reid Harvey, Steve Page, Mike Koerber, Peter Tsirigotis, Dave Cozzie, Elliott Zenick

Thanks. Emily

Emily Atkinson

Management Analyst/Office Manager Immediate Office of the Acting Assistant Administrator Office of Air and Radiation, USEPA Room 5412B, 1200 Pennsylvania Avenue NW

Washington, DC 20460 Voice: 202-564-1850

Email: atkinson.emily@epa.gov

From: Lewis, Josh

Sent: Thursday, June 29, 2017 7:58 AM

To: Dominguez, Alexander < dominguez.alexander@epa.gov>

Cc: Hilary Moffett <moffetth@api.org>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Atkinson,

Emily < Atkinson. Emily@epa.gov > Subject: RE: Methane Meeting request

Yes we can do this. Adding Emily who can respond to this group with a suggested time, etc.

Josh Lewis Chief of Staff EPA/Office of Air and Radiation

Office: 202 564 2095 Cell: 202 329 2291

From: Dominguez, Alexander

Sent: Wednesday, June 28, 2017 3:44 PM **To:** Lewis, Josh < Lewis.Josh@epa.gov>

Cc: Hilary Moffett < moffetth@api.org>; Gunasekara, Mandy < Gunasekara.Mandy@epa.gov>

Subject: FW: Methane Meeting request

Hey Josh,

Mandy requested I loop you in on this in hopes of setting up a videoconfrence with RTP in OARs conference room and having you and Sarah Dunham sit in as well. She is pretty open right now on July 18/19 and just let me know what you need on my end to help facilitate this. Appreciate it.

Alex

Alex Dominguez

Policy Analyst to the Senior Advisors to the Administrator for Air and Water U.S. Environmental Protection Agency Work: 202-564-3164 | Cell: 202-578-5985

From: Hilary Moffett [mailto:moffetth@api.org]

Sent: Tuesday, June 27, 2017 3:48 PM

To: Dominguez, Alexander < dominguez.alexander@epa.gov>

Subject: Methane Meeting request

Hi Alex,

I hope this email finds you well. API was working with Mandy on the NSPS methane issue, and we would like to come in for a meeting with API, Mandy, and Peter (and others at RTP). We thought it would be helpful before we go down to RTP to discuss ways in which we believe the rule can be improved. Our team has spent a lot of time working through the details, and we would like to share those with you all and with RTP, via phone or videoconference.

Do you and Mandy have availability on July 18/19?

Thanks, Hilary

From: Crystal Coon [crystal@glenncoffee.com]

Sent: 6/29/2017 8:59:42 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Tyler Norvell [tyler@glenncoffee.com]; Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative

Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: biomass meeting

Hi Mandy,

I hope you are well! As we mentioned last week in our meeting, we work with the National Alliance of Forest Owners. Would there be a time next week where you and I could have a quick call on a couple of items related to biomass?

I'd also like to see what the possibility is of a meeting the week of July 17 with NAFO and the American Forest & Paper Association. The associations wanted to provide an update on several research items related to the Threshold Rule. AF&PA works closely with NAFO on this issue.

Thanks so much for your consideration.

Crystal L. Coon Crystal@glenncoffee.com 405-410-7668

From: Baum, Kristina [Kristina.Baum@mail.house.gov]

Sent: 7/19/2017 9:08:56 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Moving On...

Thank you!! Absolutely. We'll be in touch, for sure! Keep killin' it over there girl!

Kristina Baum

Communications Director
U.S. House Committee on Science, Space, and Technology

Twitter: @HouseScience Phone: 202.225.6371

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Wednesday, July 19, 2017 5:08 PM

To: Baum, Kristina < Kristina. Baum@mail.house.gov>

Cc: baum.kristina@gmail.com **Subject:** Re: Moving On...

Woohoo!! Congrats! Great companies and I'm excited about your position- it sounds amazing. Let me know when and how I can help.

Best, Mandy

Sent from my iPhone

On Jul 19, 2017, at 3:00 PM, Baum, Kristina < Kristina.Baum@mail.house.gov> wrote:

Friends and colleagues,

It has been a privilege to serve in both chambers of Congress over the last number of years, and alongside such talented colleagues. Most recent, my time at the U.S. House Committee on Science, Space, and Technology under the leadership of Chairman Lamar Smith (R-Texas) has brought many opportunities to work with dedicated professionals and be a part of messaging the enactment of five bills. Prior to being in the House, I was honored to serve at the U.S. Senate Environment and Public Works Committee under the leadership of Chairman Jim Inhofe (R-Oklahoma) and be a part of efforts on historic Toxic Substances Chemical Act reform, a long-term highway and infrastructure bill, oversight efforts in cutting government red tape, and a host of other memorable committee accomplishments. Undoubtedly, my time on Capitol Hill has been full of fond memories and incredible colleagues.

My last day on Capitol Hill will be July 28th as I have accepted a position with <u>Chevron Phillips Chemical</u>, a joint venture between Chevron Corporation and Phillips 66, to serve as their chief spokesperson and work on government relations issues. I'm honored to step into this new role on August 14th at Chevron Phillips' headquarters in The Woodlands, Texas and be a part of growing team that is leading the way in our nation's petrochemical development.

To the fourth estate, I'm grateful for the professionalism many of you have demonstrated and pursued over the years. Between honored embargos, exclusives, press conferences, and an assortment of briefings and hearings, your keen interest in the issues at hand has been instrumental and valuable to the work we do here. Without your dogged quest for truth and facts, many of our critical stories would not be available to American taxpayers. I won't be that far, and I look forward to continuing to work with you in my new role.

I leave behind a fantastic staff here at the Science Committee, and I encourage you to reach out to our Press Secretary, <u>Thea McDonald</u>, as the primary press contact until my successor is named.

Please keep in touch. You can reach me at Personal Matters / Ex. 6

Best, Kristina

Kristina Baum

Communications Director
U.S. House Committee on Science, Space, and Technology

Twitter: @HouseScience Phone: 202.225.6371

From: Scott.Mason@hklaw.com [Scott.Mason@hklaw.com]

Sent: 6/29/2017 1:43:12 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,];

dominguez.alex@epa.gov

CC: dayne.delahoussaye@neste.com; Dimitri.Karakitsos@hklaw.com

Subject: Thanks...

Mandy & Alex -

Just a quick note to say Thank You for taking time to meet with us earlier this week regarding Neste, RFS, and the further development and opportunities for advanced biofuels. We really appreciate it.

Whereas Neste is a leader in the industry and the Advanced Biofuels Association, we look forward to continuing to work with you and the EPA on related issues going forward. Under the right conditions, the advanced biofuels industry will continue to grow as long as the regulatory environment allows it to compete and succeed. And, given the potential for growth, Neste will continue to give full consideration of potential economic investment and expansion opportunities in the U.S.

Thanks again for your time and continued consideration. Don't hesitate to contact us if we can be of help in the future.

Thanks, Scott

Scott Mason | Holland & Knight

Sr Policy Advisor
Holland & Knight LLP
800 17th Street N.W., Suite 1100 | Washington, DC 20006
Phone 202.469.5330 | Fax 202.955.5564
scott.mason@hklaw.com | www.hklaw.com

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From: Kenneth Stein [kstein@alec.org]

Sent: 7/7/2017 4:56:38 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Speaking at ALEC Annual Meeting

Hello Ms. Gunasekara,

Thank you for agreeing to join us at our Annual Meeting in Denver! We have you scheduled for 8:30 AM on Wednesday July 19th. Our conference is being held at the Hyatt Regency in downtown Denver, 650 15th Street Denver, CO 80202. If you could please register as a speaker at this link so that you have credentials to move around the event.

Steve Higley briefly relayed an overview of your discussion. Do you have a suggested title that I can include on the agenda? Additionally, if you would like to include a bio in our speaker bio printout, please send along what you would like to include.

Please let me know if you have any questions on timing or logistics.

Thank you, Kenny Stein

Kenny Stein
Director, Energy, Environment and Agriculture Task Force
Office: 571-482-5008
Cell: 202-997-4858
kstein@alec.org

2900 Crystal Drive, Suite 600 Arlington, VA 22202



Upcoming Meetings:

2017 Annual Meeting – July 19-21, 2017 – Denver, Colorado 2017 States and Nation Policy Summit – December 6-8, 2017 – Nashville, Tennessee 2018 Spring Task Force Summit – April 27, 2018 – Grand Rapids, Michigan

The American Legislative Exchange Council is a 501(c)3 nonprofit organization and is the largest nonpartisan, voluntary membership organization of state legislators in the United States dedicated to the principles of limited government, free markets and federalism. The Council is governed by state legislators who comprise the National Board of Legislators and is advised by the Private Enterprise Advisory Council, a group of private, foundation and think tank members.

Website | Facebook | Twitter | Blog

From: Amy Kjose Anderson [aanderson@alec.org]

Sent: 7/19/2017 2:56:31 AM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: ALEC Annual Meeting logistics

Glad you made it in safely. Look forward to seeing you in the morning!

Amy Kjose Anderson
Civil Justice Task Force Director and Oklahoma Membership Contact
American Legislative Exchange Council
(202) 870-1110
alec.org/CivilJustice

From: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Sent: Tuesday, July 18, 2017 7:31 PM

To: Amy Kjose Anderson

Subject: Re: ALEC Annual Meeting logistics

Amy,

Thank you for the follow up and information. I'm in a cab headed to the hotel. I look forward to meeting you in person in the morning.

Best, Mandy

Sent from my iPhone

On Jul 18, 2017, at 7:34 AM, Amy Kjose Anderson aanderson@alec.org wrote:

Ms. Gunasekara,

We are looking forward to having you speak at the ALEC conference this week. Kenny Stein is no longer with ALEC as of last Friday, so I am stepping in to run our Energy, Environment and Agriculture meetings at the ALEC Annual Meeting this week. I have included my contact information below. Don't hesitate to reach out if you need anything. As a reminder, we will be in room Centenniel A on Level 3 of the host hotel, the Hyatt Regency Denver, at 8am this Wednesday, July 19. We're looking forward to having you!

All my best, Amy Anderson Cell: 202-870-1110

Email: aanderson@alec.org

Amy Kjose Anderson Director, Civil Justice American Legislative Exchange Council (202) 870-1110 From: Kenneth Stein [mailto:kstein@alec.org]
Sent: Thursday, July 13, 2017 12:03 PM

To: Kenneth Stein

Subject: [EXTERNAL] ALEC Annual Meeting logistics

Thank you for agreeing to join us as a speaker for our Annual Meeting on Wednesday July 19th. This email is to be sure that you have my contact information, all listed below. Please do not hesitate to call my cell at 202-997-4858 should you encounter any logistical problems on your way to, or during, the event.

As a reminder, the meeting will be taking place at the Hyatt Regency Denver located at <u>650 15th Street Denver</u>, <u>CO 80202</u>. The Energy Environment and Agriculture Task Force will be meeting in Centennial Ballroom A located on the third floor from 8:00-10:20AM. When you arrive, please check in at Registration located in the Mineral Foyer, also on the third floor, where you will receive a speaker's badge which will allow you into the meeting area.

Each of your speaking times have been communicated to you individually, however if you are unsure about your speaking time, please reply back so that I can confirm with you.

There will be a laptop and projector available should you have any slides that you wish to use in your presentation. You may bring your slides on your own flash drive, or if you would prefer I set them up, please e-mail your slides to me if you have not already done so.

Please let me know if you have any questions, and looking forward to seeing each of you in Denver.

Kenny Stein
Director, Energy, Environment and Agriculture Task Force
Office: 571-482-5008
Cell: 202-997-4858
kstein@alec.org

2900 Crystal Drive, Suite 600 Arlington, VA 22202

<image001.png>

Upcoming Meetings:

2017 Annual Meeting – July 19-21, 2017 – Denver, Colorado 2017 States and Nation Policy Summit – December 6-8, 2017 – Nashville, Tennessee 2018 Spring Task Force Summit – April 27, 2018 – Grand Rapids, Michigan

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Website | Facebook | Twitter | Blog

From: Lee Fuller [lfuller@ipaa.org]
Sent: 7/11/2017 5:48:36 PM

To: Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Gunasekara, Mandy

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Use of Oil and Natural Gas Production Control Techniques Guidelines for 2008 Ozone NAAQS SIPs

Brittany, Mandy,

When we met with Administrator Pruitt, one of the issues that we raised related to the October 2016 Control Techniques Guidelines (CTG) for existing sources of oil and natural gas production facilities in ozone nonattainment areas. These CTG are existing source requirements that should be based on a Reasonably Available Control Technology (RACT) determination but were essentially replicating the Subparts OOOO and OOOOa Best System of Emissions Reductions (BSER) New Source Performance Standards (NSPS) requirements. Because the Subparts OOOO and OOOOa NSPS requirements are in the process of being reconsidered, IPAA recommended that EPA consider suspending or withdrawing the CTG until the issues related to Subparts OOOO and OOOOa are resolved.

Recent state actions involving State Implementation Plans (SIPs) utilizing the CTG make a decision by EPA more compelling.

In Colorado, the state is developing a SIP to meet the 2008 Ozone National Ambient Air Quality Standard (NAAQS). One area is being classified as moderate and thereby requires the implementation of Reasonably Available Control Measures (RACM). Because RACM mandates that all CTG must be included as RACM, the October 2016 oil and natural gas production facilities CTG is included in this SIP development. I have attached some materials submitted to the state regulatory agency raising concerns about the inclusion of the CTG.

Similar activity is underway in Pennsylvania although I do not have details on it. However, because Pennsylvania is part of the Ozone Transport Region (OTR), I believe it must use RACM statewide and the October 2016 CTG would now become a part of the RACM pool of regulations.

Please let me know if I can provide additional information.

Thanks,

Lee Fuller

From: Bailey, Stefan [Stefan.Bailey@prime-policy.com]

Sent: 6/27/2017 11:03:28 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: Iris Glen RINs project follow up

Ha. I'll let you know how it progresses.

Stefan Bailey Prime Policy Group 202.329.9615

On Jun 27, 2017, at 7:01 PM, Gunasekara, Mandy < Gunasekara. Mandy@epa.gov > wrote:

I'm not sure if I did, but I emailed our folks about the in person meeting request after our conversation and I was told they (being OTAQ) had planned to do this all along. I won't read into it but will appreciate the fact that you are getting the necessary meeting:) Please keep me posted on how it goes.

Sent from my iPhone

On Jun 27, 2017, at 6:16 PM, Bailey, Stefan < Stefan.Bailey@prime-policy.com > wrote:

Mandy - thanks again for you time this afternoon. Attached is the additional EDI/Iris Glen RINs project background information I mentioned to you on the call.

As you may be aware, EDI has been offered an in-person meeting for July 6 with OTAQ, EPA counsel and enforcement office. I assume you had a hand in this - if so, thank you.

Please let me know if you need anything further. All the best.

Stefan

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<Pending EDI Registration Presentation 06_2017.pptx>

Stefan Bailey Prime Policy Group 202.329.9615

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From: Deeley, Blake [Blake.Deeley@mail.house.gov]

Sent: 6/29/2017 1:34:52 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Call

Hey Mandy!

Any chance you have a moment today or tomorrow to chat? I know you are buried so I promise I will be brief. Just have a question for you.

-Blake

From: Brown, Kaitlin

Sent: Friday, June 23, 2017 8:40 AM

To: Deeley, Blake **Subject:** Call

Mandy from EPA called for you. Her direct is (202) 546-2314. It's in regards to the email you sent her yesterday.

Katie Brown | Staff Assistant Congressman David B. McKinley, P.E. (WV-01) 2239 Rayburn | Washington, DC 20515 202.225.4172

From: Clint Woods [cwoods@csg.org]

Sent: 7/3/2017 12:47:35 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: Invitation - AAPCA's 2017 Fall Business Meeting, September 20 - 22 in Raleigh, NC

Mandy,

Thanks so much - That sounds great. On the road today, but I should be available whenever it is convenient between 10:00 and 4:00 on my cell Personal Phone / Ex. 6

Clint

On Jul 3, 2017, at 8:44 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Hi Clint,

I will be there and am happy to provide a presentation. I'll work with the travel folks to get it on the books. Are you in today? If so, I'll give you a call later this afternoon to catch up on a few items.

Best, Mandy

From: Clint Woods [mailto:cwoods@csg.org]

Sent: Friday, June 30, 2017 1:30 PM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov >

Subject: Invitation - AAPCA's 2017 Fall Business Meeting, September 20 - 22 in Raleigh, NC

Mandy,

I hope all is well! I am writing to extend an invitation for you to attend and, if interested/available, provide a brief presentation during the Association of Air Pollution Control Agencies' 2017 Fall Meeting, to be held September 20 - 22, 2017 in Raleigh, North Carolina. Attached is a more detailed invitation from Sean Alteri, AAPCA's 2017 President and Director of the Kentucky Division for Air Quality.

Our members would be especially interested in hearing from you about Administration priorities and initiatives related to Clean Air Act issues (we are expecting to have a few technical presentations from career staff in OAR/Office of Air Quality Planning & Standards/Clean Air Markets Division). We are targeting the morning or afternoon of Thursday, September 21 (open session) or a session limited to local, state, and federal personnel on the morning of September 22. The meeting is closed to the press. We expect strong participation from senior officials representing more than 20 state and local air agencies as well as U.S. EPA and other federal agencies. The meeting will be held at the <u>Doubletree by Hilton Hotel-Brownstone - University</u> (1707 Hillsborough Street, Raleigh, North Carolina 27605).

Please let me know if you have any questions or if there is anything I can do to help facilitate this request.

Thanks so much for your consideration.

Clint Woods Executive Director Association of Air Pollution Control Agencies 1776 Avenue of the States Lexington, KY 40511 859.244.8040 – office cwoods@csg.org http://www.cleanairact.org <image001.jpg>

Congress of the United States

Washington, DC 20515

March 16, 2017

The Honorable Scott Pruitt Administrator Environmental Protection Agency 1200 Pennsylvania Avenue, NW Washington, DC 20460

Dear Administrator Pruitt:

As you seek to refocus the Environmental Protection Agency (EPA) on its statutory mandates as well as core missions and programs, we write to bring your attention to a range of issues that are negatively affecting growth and prosperity in Alaska, with little to no commensurate benefit to the environment. We appreciate your engagement on these issues during your confirmation process, and look forward to working with you to address them and other regulatory burdens that are causing harm in our home state.

We greatly appreciate the work you have already done to initiate an overhaul of the agency's "Waters of the United States" regulation, to extend the comment period for a proposed rule that would impose duplicative financial assurances on hardrock mines, and to streamline the permitting process for important energy infrastructure, including the creation of Regulatory Reform Officers.

Clean Drinking Water

The crisis in Flint, Michigan exposed nationwide problems with lead contamination in drinking water. Dozens of water systems in Alaska exceed EPA's lead limits. These elevated lead levels are extremely problematic in our rural communities. For example, the only school in Newtok, a Yup'ik community with about 380 residents, exceeded federal lead limits last year. Safe drinking water for every American, particularly Alaska's rural residents, must be a priority for EPA under your direction. As such, funding key programs that provide grants and loans to municipalities and poorly served rural communities is vital to achieving this priority.

Rural Sanitation

Basic sanitation infrastructure that is taken for granted in much of the United States still presents on-going serious challenges in Alaska. According to the Alaska Department of Environmental Conservation (ADEC), over 30 Alaska communities still lack running water or flushing toilets.

As a result, many Alaskans must use "honey buckets" and "washeterias." Last year's Water Resources Development Act authorized a grant program to help communities without infrastructure obtain first-time access to indoor plumbing and to provide needed assistance for aging and outdated infrastructure in rural Alaskan communities. Without these basic necessities, Alaskans face real and devastating health consequences. ADEC reports that the lack of in-home water and sewer service in rural Alaska causes severe skin infections and respiratory illnesses and that residents of Southwest Alaska suffer rates of invasive pneumococcal disease that are among the highest in the world. During your confirmation hearing you committed to working with Congress to ensure that programs under the EPA's authority, like the ones passed in last year's Water Resources Development Act, are funded. We look forward to working with you to bring basic sanitation infrastructure to Alaskans who do not currently have these essential services.

Waters of the United States Rule

The economic harm to Alaska if the last administration's "Waters of the United States" or "WOTUS" rule is left in place cannot be overstated. This rule broadly defined which waters are subject to regulation under the Clean Water Act. This is deeply problematic for Alaska, which contains over 60 percent of the nation's jurisdictional waters and approximately 65 percent of the nation's wetlands. If the WOTUS rule is implemented in its current form, these totals will certainly increase and subject a wide range of economically beneficial activities to onerous regulatory requirements. On February 28, 2017, the President issued an executive order directing EPA and the Army Corps of Engineers to review the rule in line with the policy of "ensur[ing] that the Nation's navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of the Congress and the States under the Constitution." We request that EPA continue to review the WOTUS rule and draft a new rule that is faithful to the text of the Clean Water Act and intent of Congress, while appropriately balancing environmental protection with economic growth.

Small Remote Incinerators

EPA's Federal Plan for Commercial and Industrial Solid Waste Incineration (CISWI) units adversely impacts Alaskan entities that use small remote incinerators (SRIs) to dispose of waste in remote areas where traditional disposal methods are unavailable. EPA's Plan impacts all remote development in Alaska, including energy and mining, and could also impact tourism and other industries in the future. The very same SRIs that EPA is proposing to ban in rural parts of our state currently operate in National Parks in Alaska and are exempted from the Plan because they are government owned. SRIs with such *de minimus* impact that they are allowed in a National Park should also be permissible in remote parts of our state. The alternative to SRIs is that remote sites will be forced to store their waste, which risks attracting wildlife, and then helicopter or barge the waste out — a far worse impact on the environment than very small

¹ ADEC's Division of Water notes that many households in rural Alaska use a rudimentary toilet known as a "honey bucket" in which a bucket lined with a plastic bag is used to collect urine and feces. These plastic bags of human waste are then disposed of in sewage lagoons.

² Washeterias are central water points where village residents can access running water for tasks such as bathing and washing clothes.

³ Presidential Executive Order On Restoring The Rule Of Law, Federalism, And Economic Growth By Reviewing The "Waters Of The United States" RULE, 2017 WL 764940, at *1

amounts of incineration. We request that EPA recognize the unique geography and challenges of Alaska and work with us to exempt the state from the SRI requirements in CISWI.

Fish Grinding

Currently, pursuant to EPA's regulations, all onshore Alaska facilities (except those in Kodiak and Dutch Harbor, where there are documented water quality impacts) are permitted to discharge seafood waste after grinding to one-half inch "in all dimensions." However, no available technology guarantees grinding to one-half inch "in all dimensions" 100 percent of the time. The grinders that the seafood plants use are "designed" to grind to one-half inch, but because of the nature of the waste material, it is impossible to always comply with this requirement. It is also our understanding that EPA is considering changing its regulations to require that facilities in certain locations (Ketchikan, Petersburg, Cordova, Anchorage, Sitka and the Kenai Peninsula) screen their waste instead of grinding. This would impose significant additional costs on those facilities, without any documented water quality benefits, and could result in the closing of smaller processors. Although permits for onshore facilities are issued by the State of Alaska, those permits are required to incorporate EPA's regulations. Processing vessels operating in waters offshore of Alaska are subject to the same one-half inch grinding requirement, but there are no documented water quality issues that require such grinding. The delegation looks forward to working with you to find a reasonable, common sense resolution to onshore and offshore fish grinding issues as soon as possible.

PM 2.5

Because of the extreme cold and its location, being surrounded by higher terrain, Fairbanks, Alaska has struggled to meet EPA's air quality standards for particulate matter. Until a reliable supply of natural gas is available to the community, residents will be forced to heat with oil or wood stoves that release small smoke particles. EPA is now proposing penalties on the community under the Clean Air Act for noncompliance. We respectfully request that EPA work with us to improve air quality in Fairbanks through mechanisms like the Targeted Airshed Grants program and that the Agency delay those penalties because of the extraordinary circumstances confronting Fairbanks.

Preemptive/Retroactive Permit Vetoes

Alaska is blessed with an almost unparalleled abundance of natural resources. Our state has successfully balanced resource development with environmental stewardship for decades, but regulatory stability is critical to drawing private investment. As such, the delegation respectively requests that the EPA reverse its recent pattern of preemptive and retroactive vetoes and instead commit to following the permitting processes as specified in law. Both preemptive and retroactive vetoes undermine the reliability and fairness of the permitting process, which exists to ensure due process. The permitting process is designed to fully vet issues by providing applicants with the opportunity to make their case and allowing relevant agencies to review potential issues. Discontinuing the use of preemptive and retroactive vetoes would not impinge on EPA's authority to veto projects within the permitting process, when merited, after review of environmental impacts and scientific records. However, it would avoid prejudgments and provide needed regulatory certainty for applicants as they look to invest in our state.

Clean Power Plan

The previous administration agreed to exempt Alaska from the final "Clean Power Plan" due to the lack of applicable data and the recognition of the unique circumstances faced by our state. As

you consider the future of this sweeping regulatory regime, it is paramount that Alaska remain exempt. One-size-fits-all standards do not work in Alaska, because only a small portion of our state, the Railbelt region, has an electric grid. Much of Alaska relies on village-scale microgrids powered by diesel generators, and no standard developed for the interconnected grid of the contiguous states could ever properly be applied to Alaska.

CERCLA 108(b)

EPA's proposed rule "Financial Responsibility Requirements Under CERCLA § 108(b) for Classes of Facilities in the Hardrock Mining Industry," is redundant and unnecessary. There are already well-established, modern financial assurance requirements in place at both the state and federal levels. The U.S. Small Business Administration Office of Advocacy has strongly recommended that EPA withdraw its proposed rule. The Bureau of Land Management and the U.S. Forest Service have also expressed concerns with its infringement into their respective jurisdictions and its duplicative nature. The delegation requests that you closely review the proposed rule and consider requesting an extension of the court-ordered deadline if necessary. As noted previously, we appreciate that you have already extended the comment period for this complex and highly technical proposal, and are eager to work with you to ensure that federal regulations do not further weaken our nation's mineral security.

Thank you for your consideration of the many challenges facing our state. We urge you to reject the top-down, paternalistic approach that marked EPA's approach in Alaska in the last administration and ask you to avoid the layering of overlapping and duplicative rules that serve primarily to undermine Alaskans' ability to provide for their families. We welcome your leadership and look forward to working with you and with the new administration to address these and related issues.

Sincerely,

Lisa Murkowski

United States Senator

Dan Sullivan

United States Senator

Congressman or All Alaska

From: Kate Fay [Kate.Fay@nblenergy.com]

Sent: 7/5/2017 1:59:15 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Meeting on July 20?

Hi Mandy:

My VP of Environmental (Bob Bemis) and I would like to come meet with you either during the morning (before 11 am) or after 1:30 on July 20 if that would work? Topic: Ozone and OOOOa. Also wondering if it might make sense for Georg Sugiyama to attend since we would like to put a few "mechanical" ideas you regarding ozone. Just a thought.

Thanks for your consideration.

Kate

Please note my new email address: kate.fay@nblenergy.com

Kate Fay Manager, Environmental and Regulatory Policy Noble Energy, Inc. 1625 Broadway, Suite 2200 Denver, Colorado 80202

303.910.2830 (cell) 720.587.2397 (office)

From: Laura B Siegrist [laura_b_siegrist@whirlpool.com]

Sent: 7/11/2017 4:54:07 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: EPA Meeting in Rome June 8 // Time to catch up?

Hey there- I'm hoping that third time might be the charm here:) - would love to find a time to meet with you to discuss our EPA priorities / preemption language specifically. Just circled back with Dan Simmons and DOE and Byron Brown as well per a meeting we had last month. Any chance you can squeeze in time to connect? Let me know, thanks Mandy.

LAURA SIEGRIST SENIOR MANAGER, GOVERNMENT RELATIONS

T: (202) 639-9420 | C: (202) 738-3895 | Whirlpool Corporation | Whirlpool Corp.com Please consider the environment before printing this e-mail



On Thu, Jun 29, 2017 at 2:23 PM, Laura B Siegrist < <u>laura_b_siegrist@whirlpool.com</u>> wrote:

Hey Mandy! Sorry to bug you but wondering if you might have time post-Energy week to touch base and catch up on Whirlpool's priorities before EPA? Let me know and hope all is well!

LAURA SIEGRIST SENIOR MANAGER, GOVERNMENT RELATIONS

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On Mon, Jun 5, 2017 at 10:05 AM, Laura B Siegrist < laura b siegrist@whirlpool.com > wrote: Hey Mandy!

Hope all is well. Know you're completely swamped but wanted to ping you on two items -

- 1. My colleagues in Italy where our Europe / Middle East / Africa business is headquartered are planning to attend the June 8th meeting in Rome at the U.S. Embassy this week with Administrator Pruitt. I am helping them to prep for the meeting but wanted to see if you had a general sense of what issues the Administrator was hoping to discuss at that session. Either way wanted to put that on your radar.
- 2. Would love to find a time to catch up. Know you've talked to our trade association colleagues at AHAM as well as Dan Simmons over at DOE who I met with last week. We are eager to work with EPA and DOE on the Energy Star program as well as energy efficiency standards overall. I've been emailing with Byron Brown on setting up a time, maybe this week, but would love to find time to connect with you as well.

Thanks in advance and hey to Surya from Ben and I!

Talk to you soon,

Laura

LAURA SIEGRIST SENIOR MANAGER, GOVERNMENT RELATIONS

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From: Green, Joseph J. [JGreen@KelleyDrye.com]

Sent: 7/18/2017 6:32:35 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Traylor, Patrick

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=b6d06c6b766c4b4b8bfdf6b0fea4b998-Traylor, Pa]

Subject: RE: Manganese follow up - SH Bell Co. (urgent request) **Attachments**: October 4, 2016 DFFO.PDF; Bell Talking Points v4 v1.pdf

Mandy and Patrick -

With DOJ's response to the court on the SH Bell matter due Friday, I wanted to urge EPA to encourage DOJ to discuss with SH Bell a positive resolution of the matter, as discussed below. One of the critical elements in this case is that Ohio EPA not only rejected the conclusion that a "public health hazard" exists in East Liverpool, but also that the agency had been actively pursuing aggressive enforcement against SH Bell of its own. In fact, the most recent compliance order from Ohio EPA was issued in October 2016, at the same time that Ohio EPA also was rejecting the "public health hazard" allegations. Importantly, the October 2016 Ohio EPA Order addresses the same technical elements as the proposed federal consent decree and aims to achieve the same goal: reduce ambient air levels to below the ATSDR "minimum risk level." The attached talking points include further detail (see Option 1 on page 2).

Accordingly, it seems to me that practically the same environmental benefit can be achieved by allowing the state process to play out, rather than superimposing a federal action that raises extreme concerns for broader industry interests about the misuse of manganese-related toxicology and science (as detailed in the other materials I have provided to you).

For these reasons, I encourage EPA to reach out to DOJ and suggest that they revisit with SH Bell compliance measures being implemented in response to the Ohio EPA order from October. There is little if any additional environmental or health benefits to be achieved through the federal "overfilling" in this case – though substantial damage has been done to the public and regulatory community's understanding of the science of manganese toxicology.

Please let me know if you would like to meet or have a call to discuss these issues. Your attention to this matter is greatly appreciated.

Regards, Joe

JOSEPH J. GREEN

Special Counsel
Kelley Drye & Warren LLP
(202) 342-8849
JGreen@KelleyDrye.com

Counsel to the Manganese Interest Group

From: Green, Joseph J.

Sent: Wednesday, July 12, 2017 3:22 PM

To: 'gunasekara.mandy@epa.gov' <gunasekara.mandy@epa.gov>

Cc: 'traylor.patrick@epa.gov' <traylor.patrick@epa.gov>

Subject: RE: Manganese follow up - SH bell Co.

Hi Mandy -

I'm following up on some developments related to the manganese issues we discussed previously during the steel (SMA) meeting in May. I've cc'd Patrick Traylor whom I have not yet met (hello Patrick) but understand has had some questions about the SH Bell matter.

Today, we received an order from the federal district court in Ohio reviewing the pending SH Bell consent decree. The court directs DOJ to respond by July 21 to our supplemental submission to the court filed on June 30. Copies of both are attached. Our supplemental submission addresses a key factor that has slid under the radar regarding the community studies by Dr. Bowler and others that have been conducted in the East Liverpool, Ohio area and were cited by DOJ in the complaint.

In short, we challenge why the study authors have not explained how the data from the Mn-exposed population in East Liverpool compares to the control population results from an "unexposed" community (Mt. Vernon, OH) or to the general US population. (I.e., were there statistically significant differences in results between the control and study populations? ... if there were, it would be surprising if they were not reported). Moreover, a similar study comparing the Mn-exposed population in Marietta, Ohio to the Mt. Vernon and general US control populations showed that the test results were all within the "normal range." The subtle differences that were allegedly teased out by the study authors were within the "normal" range, and, accordingly, not "adverse." The authors also have reported that the results from East Liverpool and Marietta were similar – hence, we believe that there is nothing "outside the norm" for East Liverpool as well.

The court has now asked DOJ to respond.

Thank you for your interest in this matter. Please let me know if you have any questions or would like to discuss.

Regards, Joe

JOSEPH J. GREEN

Special Counsel
Kelley Drye & Warren LLP
(202) 342-8849
JGreen@KelleyDrye.com

From: Green, Joseph J.

Sent: Thursday, May 25, 2017 12:59 PM

To: 'gunasekara.mandy@epa.gov' <gunasekara.mandy@epa.gov>

Subject: Manganese follow up

Mandy -

It was great meeting you at the SMA meeting yesterday. I know everyone appreciated your taking the time to talk about the Administration's priorities and to listen to some of the issues facing the steel industry.

Following up on the manganese matter, attached are some documents that provide background on our concerns related to how EPA and DOJ have addressed perceived concerns with manganese emissions, including in the East Liverpool, Ohio area. I have included the following documents:

- * Talking points summarizing the core concerns with the pending SH Bell consent decree.
- * Two sets of comments filed by the Manganese Interest Group on the SH Bell consent decree (original and response comments) that provide more detail on our concerns. [Note that the court has yet to approve entry of

the decree, possibly in response to the questions we raised regarding the baseless allegation that manganese emissions pose a risk to the community.]

- * A short summary of scientific concerns with the technical basis for the SH Bell consent decree.
- * A one-page overview of some of the fundamental science issues related to manganese toxicology and, in particular, the outdated IRIS reference concentration.

As the head of the Manganese Interest Group (which is comprised of companies and trade associations in the steel, ferroalloy, chemical, and other industry sectors), I would be happy to answer any questions you may have or provide additional information. If you think it would be useful for me or other members of the Group to speak others at EPA or in the Administration, please let me know.

Again, your time and attention to this issue is greatly appreciated.

Regards, Joe

JOSEPH J. GREEN

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United States of America v. S.H. Bell Company, Case No. 4:17-cv-131 United States District Court, Northern District of Ohio Eastern Division

What is it?

A sue and settle case *filed at the behest of the U.S. Environmental Protection Agency (EPA)* two days before the end of the Obama Administration. The Complaint alleges that emissions of manganese particulate from the S.H. Bell facility in East Liverpool, Ohio present an "imminent and substantial endangerment" to public health under Clean Air Act section 303 and CERCLA section 106. The company was threatened with a "shut down" order if it did not concede.

What is at stake?

The allegation that manganese emissions from the S.H. Bell facility present an "imminent and substantial endangerment" is utterly baseless.

- The Ohio EPA which has been actively engaged in enforcement against the facility since at least 2010 does not agree with EPA's determination and has publicly disagreed with the science on which EPA purportedly relies to support its allegation. *The case is a clear example of federal overreach.*
- The Manganese Interest Group filed detailed comments on February 24, 2017 and June 30, 2017 in opposition to entry of an associated Consent Decree. The comments explain in detail why the allegation of an "imminent and substantial endangerment" is utterly baseless and not supported by the available science or actual monitoring data.
 - EPA maintains in the lawsuit that any exposure to manganese above a conservative "safe" lifetime exposure level set to protect even the most vulnerable sub-populations (such as the very old and the very young), creates an "imminent and substantial endangerment" despite EPA having clearly stated in other similar settings that no such allegation can be supported.
 - o EPA cherry picks one set of reported results from an EPA-sponsored research program purporting to show "associations" between "modeled" (as opposed to measured) exposures to manganese and adverse neurological outcomes in two Ohio towns with manganese air exposures, while completely ignoring that the same EPA-sponsored research also failed to show any associations between adverse neurological outcomes and exposure to manganese in air when comparing one of the two exposed towns to another Ohio town with no manganese air exposures. Neurological performance falling within the average range of the general population does not constitute an imminent and substantial endangerment.
- In light of the ongoing actions by Ohio EPA, and the questions raised by the state and others as to the accuracy of the "endangerment" allegation, it is inappropriate for EPA to employ a "sue and settle" strategy that effectively forces the targeted source to make an Orwellian choice: either agree to the terms of a consent decree dictated by EPA or shut down its operations for a minimum of 30 days.

July 2017

What is the ask?

As with other EPA "last minute" regulatory activity that is currently being reviewed by the new Administration, this case should temporarily be held in abeyance to allow the new Administration a chance to review the substance of the Complaint and Consent Decree, as well as concerns with federal overreach.

What are the potential action options?

EPA has ample authority under the Clean Air Act to address concerns about the S.H. Bell facility without resorting to the draconian federal overreach being employed with the current "sue and settle" consent decree approach. Examples more consistent with overall Congressional intent follow:

Option 1: Withdraw the complaint and consent decree and defer to implementation of appropriate regulatory actions directed at the S.H. Bell facility by Ohio regulators, consistent with shared state/federal responsibilities under the Clean Air Act.

- The Ohio EPA issued an order to S.H. Bell in October of 2016 that addresses all of the technical elements of EPA's proposed consent decree, including:
 - o A requirement for **enhanced fugitive dust** controls;
 - A requirement for identification of additional controls not yet implemented that can further reduce manganese emissions;
 - A requirement for an enhanced ambient air monitoring program to assess S.H. Bells' contribution to ambient manganese levels in East Liverpool, Ohio; and
 - A requirement to examine and report on the facility's contribution to manganese air concentrations in the community with an aim to reducing the emissions that are causing or contributing to elevated manganese ambient air levels (*i.e.*, "root cause analysis").

Option 2: Withdraw the complaint and consent decree and initiate appropriate proceedings to impose controls for the S.H. Bell facility under section 112 of the Clean Air Act, the provision of the Clean Air Act that focuses on emissions of hazardous air pollutants (i.e., the NESHAP program).

CAA section 112(c)(3) (42 U.S.C. § 7412(c)(3): "The Administrator shall list under this subsection each category or subcategory of area sources which the Administrator finds presents a threat of adverse effects to human health or the environment) (<u>by such sources individually</u> or in the aggregate) warranting regulation under this section." (Emphasis added.)

CAA section 112(a)(2) (42 U.S.C. § 7412(a)(2)): "The term 'area source' means any stationary source of hazardous air pollutants that is not a major source."

CAA section 112(c)(5) (42 U.S.C. § 7412(c)(5)): "In addition to those categories and subcategories of sources listed for regulation pursuant to paragraphs (1) and (3), the Administrator $\underline{may\ at\ any\ time}$ list additional categories and subcategories of sources of hazardous air pollutants . . . " (Emphasis added).

Option 3: Move to hold the complaint and consent decree in abeyance pending the adoption of appropriate controls for the S.H. Bell facility under section 112 of the Clean Air Act.

July 2017



October 4, 2016

CERTIFIED MAIL

John M. Bell President S.H. Bell Company 2217 Michigan Avenue East Liverpool, Ohio 43920

Re: Final Findings and Orders for violations of Ohio's air pollution regulations

Dear Mr. Bell:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

James Kavalec, Manager
Compliance/Enforcement Section
Division of Air Pollution Control

xc: James Lee, PIC
Drew Bergman, Legal Office
Ed Fasko, DAPC-NEDO
Jennifer Kurko, DAPC-NEDO

OHIO E.P.A. OCT -4 2016

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:		
S.H. Bell Company Stateline Facility 2217 Michigan Avenue East Liverpool, Ohio 43920	,	irector's Final Findings nd Orders

I. JURISDICTION

These Director's Final Findings and Orders ("DFFOs") are issued to S.H. Bell Company ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") § 3704.03 and § 3745.01.

II. PARTIES BOUND

These DFFOs contain both "Findings" and "Orders." The Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the facilities (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

- 1. Unless otherwise stated, all terms used in these DFFOs shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.
- 2. The term "affected materials" shall mean ferromanganese materials and other materials with a manganese content (raw material, intermediate, or finished product) that are processed or otherwise handled on site in such a manner that could cause the generation of stack or fugitive emissions containing ferromanganese or manganese compounds. Affected materials shall not include materials that contain manganese, such as steel ingots, where the material is not a source of stack or fugitive emissions containing ferromanganese or manganese compounds.
- 3. The term "total suspended particulate" shall mean the total amount of particles collected on air monitor filters that constitute inhalable particulate matter (the total airborne particles inhaled through the nose and mouth).

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohlo Environmental Protection Agency.

6/2 X 1/2 CEST 40000: 10-4-2016

Director's Final Findings and Orders S.H. Bell Company Page 2 of 9

4. The term "respirable fraction" shall mean that fraction of inhaled particles capable of passing beyond the larynx and cliated airways, respectively, during inhalation, commonly considered to be particulate matter less than 10 micrometers in aerodynamic diameter (PM₁₀).

IV. FINDINGS

All of the Findings necessary for the issuance of these Orders pursuant to ORC sections 3704.03 and 3745.01 have been made and are outlined below. Nothing in the Findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA makes the following Findings:

- 1. Respondent owns and operates one Ohio facility, the Stateline Facility, that handles, processes, and stores ferroalloys and other materials. The Stateline Facility is located at 2217 Michigan Avenue in East Liverpool, Ohio, and is identified by Ohio EPA facility identification number 0215020225. A portion of the Stateline Facility is located in Pennsylvania and is not regulated by the Ohio EPA. Respondent is a "person" as defined by ORC § 3704.01(O) and Ohio Administrative Code ("OAC") Rule 3745-15-01(U).
- At the Ohio side of the Stateline Facility, Respondent operates the following emissions units: roadways (F001), storage piles (F002), material handling (internal transfers) (F003), Trico box filling unit (F004), Carmen palletizing station (F005), Area C crusher - screener (F006), Area C screener (F007), north bag filling station (F008), two portable scalp screen boxes (F009), east bag filling station (F011), PA screener (F012), truck dump (unloading of incoming materials) (F013), river barge unloading by crane (F014), railcar unloading and loading (F015), straight-sided barge dock unloading (F016), Frac Sand Handling-Direct Transfer (F017), Frac Sand Storage and Loadout (F018), emergency diesel-fired electrical generator (P003), rotary dryer (P901), truck loadout shed (P902), and hammermill crushing system (P903). At the Pennsylvania side of the Stateline Facility, Respondent operates the following emissions units: roadways (P006), storage piles (P007), barge unloading (P004), miscellaneous material handling (including, but not limited to, barge unloading and truck dump unloading) (P005), KUX Crusher (P001), fine-size screener (P002), and portable scalp screen boxes (P003), Frac Sand Handling-Direct Transfer (not established), and Frac Sand Storage and Loadout (not established). Each of these emissions units is an "air contaminant source" as defined in OAC Rule 3745-15-01(B) and (W), and emits particulate matter as defined in OAC Rule 3745-17-01(B)(13). Some of the particulate matter emissions consist of or include affected materials.
- 3. OAC Rule 3745-15-07(A) prohibits any person from causing, permitting, or maintaining a public nuisance due to the emission or escape into the open air from any source or sources of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, or any other substances or combinations of substances, in such manner or in such amounts as

Director's Final Findings and Orders S.H. Bell Company Page 3 of 9

to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property.

- 4. The emissions of affected materials from Respondent's Facility cause or significantly contribute to elevated ambient air concentrations of manganese at the Michigan Avenue (Water Plant) ambient monitor in East Liverpool, Ohio.
- 5. U.S. EPA has recently updated its assessment of manganese toxicity to follow the Agency for Toxic Substances and Disease Registry (ATSDR) minimum risk level (MRL) for manganese of $0.3~\mu g/m^3$. The MRL is the appropriate health-based risk comparison level, as recognized by both U.S. EPA and ATSDR's most recent guidance, based upon scientific literature that evaluates exposure to specific pollutants and their associated health effects in human or animal studies. Specifically, the manganese MRL was developed as an estimate of chronic inhalation exposure that is likely to be without appreciable risk of adverse non-cancer effects during a lifetime. Accordingly, annual average ambient air concentrations of manganese that are below the manganese MRL are not likely to cause health effects. It should be emphasized that, based on US EPA Risk Assessment Guidance for Superfund (RAGS) (1989), the appropriate metric for comparison with a chronic MRL is an annual average exposure concentration. ATSDR MRLs are now used preferentially instead of the U.S. EPA Reference Concentration (RfC) for manganese, which was established in 1993 and has not been updated since then.
- In a letter to U.S. EPA Region 5 dated September 22, 2016, ATSDR Region 5 evaluated the concentrations of manganese being emitted from the Facility and recognized that the MRL values are based on the respirable fraction of manganesecontaining particulates and that the respirable fraction is less than 10 microns. Usage of the respirable fraction is the most relevant measurement for assessing the potential toxicity of airborne concentrations of manganese near the Facility. While Total Suspended Particulate (TSP) samples in general quantify the inhalable fraction of particulate pollution (the total airborne particles inhaled through the nose and mouth), the most current scientific risk comparison values are based upon measurements of the respirable fraction, particles that pass deep into the lung. Prior to the release of the most recent ATSDR report, the accepted method of the measurement of metal in the ambient air was by a hi-volume sampler that measures TSP. Ohio EPA has always asserted, as has Respondent in the response letter sent to Ohio EPA dated April 1, 2016 and as ATSDR does now, that the respirable fraction (PM₁₀) is more appropriate for determining health impacts. However, even when reviewing TSP values, higher TSP values have been trending downward in 2016 after a series of actions taken by Ohio EPA.
- 7. A detailed PM $_{10}$ respirable fraction data analysis has recently been completed for calendar year 2015 and the first eight months of 2016 by Ohio EPA. For 2015, the monthly PM $_{10}$ concentrations were 0.08, 0.08, 0.47, 0.32, 0.18, 0.42, 0.38, 0.62, 0.34, 1.38, 0.25, and 0.15 $\mu g/m^3$. The resultant PM $_{10}$ annual average for 2015 was 0.39 $\mu g/m^3$, which is above the ATSDR MRL. The January August 2016

Director's Final Findings and Orders S.H. Bell Company Page 4 of 9

manganese PM₁₀ monthly averages are 0.361, 0.088, 0.089 0.194, 0.207, 0.052, and 0.034, and 0.11, respectively. The average manganese PM₁₀ for the first eight months of 2016 is 0.15 μ g/m³. The monthly average PM₁₀ concentration for July 2015 through July 2016 is 0.324 μ g/m³, which remains above the MRL of 0.30 μ g/m³. The monthly average for the most recent 12 months available (August 2015 – August 2016) decreases to 0.303 μ g/m³, which is still slightly above the MRL. Analysis of the PM-10 respirable fraction data indicates all values are below the established NAAQS for PM-10.

- 8. Since 2008, Ohio EPA has taken a series of actions to reduce the amount of manganese in the ambient air in the vicinity of East Liverpool, including:
 - Issuing first set of DFFOs on April 14, 2008 to Respondent which required particulate controls for manganese.
 - Issuing second set of DFFOs to Respondent on February 8, 2010 to further reduce particulates containing manganese.
 - Monitoring for manganese in ambient air from 2010 2013. Monitoring during this time period showed that concentrations had been reduced from 2010 levels.
 - Conducting an investigation into the 2014 elevated manganese levels at the water plant monitor. This investigation revealed that the water treatment plant had been sand blasting a tank at the site at approximately same time period of higher concentrations.
 - Beginning more frequent inspections to evaluate compliance of the Facility in January of 2016 after detecting higher readings at the water plant monitor toward the end of 2015. A February 2016 inspection showed only two housekeeping violations that were quickly remedied.
 - Initiating discussions with Respondent in March 2016 with the goal of further lowering emissions of particulates and manganese.
 - Requesting Respondent to install additional controls and Respondent submits a plan on April 1, 2016 for additional controls at the Facility.
- 9. In general, the actions taken by Ohio EPA have reduced manganese emissions in East Liverpool, Ohio. In calendar years 2011-2013, the TSP manganese annual averages decreased from the 2010 annual average of 1.58 $\mu g/m^3$ to 0.94, 0.74, and 0.89 $\mu g/m^3$ for years 2011-2013, respectively. For 2014-2015 the TSP annual average rose to 1.63 $\mu g/m^3$ for 2014 to a high annual average of 2.54 $\mu g/m^3$ for 2015. The TSP annual average returned to 0.88 $\mu g/m^3$ for the first six months of 2016.
- 10. Respondent is in substantial compliance with the 2008 and 2010 DFFOs as noted in the May 22, 2011, February 23, 2015, January 11, 2016, April 27, 2016, and July 11, 2016 inspections. Although the February 4, 2016 inspection found two minor

Director's Final Findings and Orders S.H. Bell Company Page 5 of 9

violations, Respondent was quick to bring the emissions units back into compliance as noted in their February 26, 2016 response letter. Respondent sent a response letter on April 1, 2016 as a result of the March 22, 2016 meeting with Ohio EPA and committed to several additional control measures.

- 11. Although these additional control measures have made some progress in bringing down manganese emissions, Ohio EPA has determined that more should be done to reduce the respirable fraction exposure of manganese. Based on the evaluation of the ambient air quality data, Ohio EPA has concluded that emissions from Respondent's Facility still cause or significantly contribute to unacceptable ambient air concentrations of manganese and, as a result, Respondent has violated and is violating OAC Rule 3745-15-07(A) and ORC § 3704.05(C). The Director finds that Respondent must take additional actions to address manganese emissions and these DFFOs supplement, and do not supersede, the 2008 and 2010 DFFOs.
- 12. The Director has given consideration to, and based his determination on evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

- 1. To reduce the emissions of affected materials that are causing or significantly contributing to the ambient air levels of manganese which the Ohio EPA has measured at the ambient air monitors in the City of East Liverpool, Respondent shall comply with the requirements of Orders 2 through 4 as expeditiously as practicable, but not later than the deadlines specified therein. Where applicable, Respondent has voluntarily agreed to apply the control measures specified in these Orders to that part of its Stateline Facility located in Pennsylvania.
- 2. Within fourteen (14) days of the effective date of these DFFOs, Respondent shall provide a letter to Ohio EPA certifying completion of the enhancements to Respondent's fugitive dust controls as described in Respondent's Supplement to the Phase IV Engineering Study required by the 2008 DFFOs, attached to the letter from Scott R. Dismukes to Drew Bergman dated April 1, 2016. This letter shall include details regarding the timing of when these enhancements were completed and provide support documentation thereof.
- 3. Within sixty (60) days after the effective date of these DFFOs, Respondent shall submit for Ohio EPA's review and approval an engineering study conducted by an independent third-party consultant with experience in the field of air pollution control that

Director's Final Findings and Orders S.H. Bell Company Fage 6 of 9

evaluates any additional actions that Respondent can take to address airborne manganese emissions at the facilities.

4. As soon as possible after the effective date of these DFFOs, Respondent shall meet with Ohio EPA to define the scope, process, and timelines for an engineering study conducted by an independent third-party consultant with experience in the field of air pollution control that evaluates the proportional contribution of Respondent's Facility to the ambient air levels of manganese as measured by the Ohio EPA total particulate and PM₁₀ ambient air monitors in the City of East Liverpool. Within thirty (30) days after the effective date of these DFFOs, Respondent shall propose a plan on the scope, process, and timelines for this study.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders, these obligations have been embedded in operation permits, and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03(D)(1) for a corporation, or a corporate officer who is in charge of a principal business function of Respondent.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, operations by Respondent.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

Director's Final Findings and Orders S.H. Bell Company Page 7 of 9

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency Northeast District Office Division of Air Pollution Control 2110 E. Aurora Rd. Twinsburg, Ohio 44087 Attention: Ed Fasko

and to:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Jim Kavalec, Manager
Compliance and Enforcement Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. <u>RESERVATION OF RIG</u>HTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and

Director's Final Findings and Orders S.H. Bell Company Page 8 of 9

satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

Director's Final Findings and Orders S.H. Bell Company Page 9 of 9

Title

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

ORDERED AND AGREED: Ohio Environmental Protection Agency Is of 16 Graig W. Butler Director AGREED: S.H. Bell Company 4 Ontaker 2016 Date John M. Bell Printed or Typed Name Praident

From: WMATA GM/CEO [smarttrip@enews.lists-wmata.com]

Sent: 6/29/2017 7:53:52 PM

To: Metro Customer [smarttrip@enews.lists-wmata.com]

Subject: Thank You for Riding Metro

We appreciate your support during SafeTrack. It's not been an easy journey as we performed three years of track work in just one year.

Your support helped us improve safety and reliability so that Metro can get back to good. Thank You!

From: Chiang, Amy [Amy.Chiang@Honeywell.com]

Sent: 7/12/2017 7:31:14 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Thank you and follow-up

Hi Mandy,

Just wanted to follow up with you on Administrator Pruitt's request to have us meet with EPA separately on the issues, as well as, potential site visits.

Sorry to bug you, but my CEO just asked about status so have to follow up!

Hope all is well.

Amy

From: Chiang, Amy

Sent: Thursday, June 29, 2017 1:23 PM

To: Gunasekara.Mandy (Gunasekara.Mandy@epa.gov); 'jackson.ryan@epa.gov'

Subject: Thank you and follow-up

Mandy and Ryan,

Thanks to both of you for joining the meeting yesterday! Wanted to touch base with you on follow up including: setting up the EPA staff-Honeywell meetings the Administrator mentioned, as well as, potential visits to Louisiana to see our HFO plants, Tulsa to see our Thomas Russell facility or Vietnam to see our technology in action. Not sure if I should be working with you all or someone else on the visits. Please let me know.

Have a great Fourth of July weekend.

Amy

From: Bailey, Stefan [Stefan.Bailey@prime-policy.com]

Sent: 6/27/2017 10:14:49 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Iris Glen RINs project follow up

Attachments: Pending EDI Registration Presentation 06_2017.pptx; ATT00001.htm

Mandy - thanks again for you time this afternoon. Attached is the additional EDI/Iris Glen RINs project background information I mentioned to you on the call.

As you may be aware, EDI has been offered an in-person meeting for July 6 with OTAQ, EPA counsel and enforcement office. I assume you had a hand in this - if so, thank you.

Please let me know if you need anything further. All the best.

Stefan

The information, and any attachments contained in this email may contain confidential and/or privileged information and is intended solely for the use of the intended named recipient(s). Any disclosure or dissemination in whatever form, by another other than the intended recipient is strictly prohibited. If you have received this transmission in error, please contact the sender and destroy this message and any attachments. Thank you.

Stefan Bailey
Prime Policy Group
202.329.9615



Pending EDI EPA Part 80 Registration

Susan Lafferty David McCullough

June 27, 2017

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Overview

- EDI's registration has been pending since November 2015.
- EDI's application is consistent with EPA's regulations as detailed in the memorandum and accompanying slide deck transmitted to EPA in November 2016.
- The Iris Glen project complies with the regulations in the same manner as numerous other projects EPA has registered for RIN generation through ensuring the transport of the gas and ultimate use as a transportation fuel through contracts and affidavits.
- EDI and its predecessor owner of the project, ESG, have been responsive to EPA and continually sought to engage with the Agency during the pendency of its application.
- EDI and ESG have put hundreds of hours into analyzing how Iris Glen complies with the regulations and stands ready to answer any questions and provide any supporting documentation.
- The project displaces fossil CNG, decreases emissions and generates revenue, and relies upon U.S. energy that creates U.S. jobs.

Regulatory Overview

The regulations state that "the biogas/CNG/LNG that is ultimately withdrawn from the commercial distribution system for use as a transportation fuel is withdrawn in a manner and at a time consistent with the transport of the biogas/CNG/LNG between the injection and withdrawal points." 40 C.F.R. 80.1426(f)11)(ii)(E).

- "Renewable CNG" is defined as "biogas or biogas-derived pipeline quality gas that is compressed for use as a transportation fuel and meets the definition of Renewable Fuel." Renewable fuel is "fuel that is used to replace or reduce the quantity of fossil fuel present in a transportation fuel." 40 C.F.R. 80.1401.
 - Biogas-derived" is not defined.
 - Practically speaking, where biogas molecules are introduced into a commercial distribution system, the molecules withdrawn must be biogas-derived.
- "Transport" is not defined, but the industry-accepted and FERC concept of transport does not relate to the direction of the physical molecular flow.
 - Regulators and industry acknowledge that transport occurs through displacement, backhauls, exchanges, and other shipping arrangements that involve sales against the flow of the gas.
 - EPA has expressly acknowledged the impossibility of tracing at the molecular level.
- "Commercial distribution system" is not defined; plain language indicates a broader term than just an interstate pipleline.

EPA has Questioned whether the Biogas is Used as Transportation Fuel

EDI's Proposed Registration Meets EPA's Criteria:

- There is no requirement for actual molecular transport of gas from injection to withdrawal due to the nature of natural gas.
 - As a general principle of law, significant requirements should not be read into regulations.
 - EPA stated in long established guidance that "[p]roducers may therefore take into account such displacement provided that they demonstrate that a verifiable contractual pathway exists and that such pathway ensures that (1) a specific volume of landfill gas was placed into a commercial pipeline that ultimately serves the transportation fueling facility and (2) that the [volume of gas] drawn into this facility from that pipeline matches the volume of landfill gas placed into the pipeline system." 75 Fed. Reg. 14712, March 26, 2010.
 - The key objective and fundamental concept underlying the regulation is one of displacement or reduction of fossil fuels, which is accomplished in EDI's registration.
 - EPA reaffirmed this guidance three years ago, "[w]hile it is impossible to track the specific molecules or electrons, it must be theoretically feasible that the fuel produced can reach the vehicle using it." 79 Fed. Reg. 42144, July 18, 2014.
 - EPA has recognized that documents record and provide traceability of the withdrawal of raw biogas at its source, "the various injection / withdraw points into the distribution pipeline, the various production facilities, and [at] the final step for use as a transportation fuel." Id. at 42145.
 - Flow within a pipeline system is not like the flow of a river. In a pipeline system, gas
 moves from high pressure to low pressure (e.g., like a balloon or pillow).

EPA has Questioned whether the Biogas is Used as Transportation Fuel

EDI's Proposed Registration Meets EPA's Criteria:

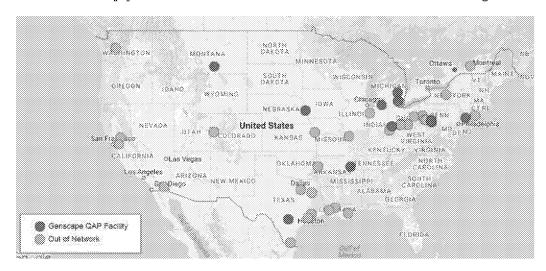
- Instead of molecular flow, the gas will be transported pursuant to EPA's established requirements regarding transport: "The producer must be able to demonstrate, through contracts or affidavits, a path of the treated volume (in BTUs) prior to blending with non-renewable to downstream CNG/LNG plants, and ultimately for use as transportation fuel. The EPA would consider RINs to be improperly generated if parties used the BTU of the blended gas mixture (renewable biogas and non-renewable gas) or if the parties used the BTU of the gas withdrawn from the pipeline or of the renewable fuel (e.g., CNG or LNG) after it is compressed or liquefied for transportation use." (see EPA's biogas guidance document).
 - Consistent with the displacement concept outlined in the RFS2 preamble, EPA states that it is the BTU amount that is relevant—not the transport of the actual molecules.
- EDI has provided the affidavits described above and can provide any additional contracts, including transportation contracts with the pipelines, to EPA.
- Finally, biogas is injected onto a "commercial pipeline system." EDI's biogas
 is injected onto a pipeline owned and operated by a 3rd party, that has a tariff
 and pipeline gas quality requirements.

Current Regulations 40 C.F.R. §80.1426(f)(11)(ii)(E)

EDI's Proposed Registration Achieves EPA's Criteria:

- Timing that takes into account the transport of the gas will be considered.
 - Biogas from the landfill will not immediately generate RINs.
 - The RIN generation process accounts for biogas processing and transport.
 - Regulations address generation on a monthly basis of gas delivered. 40 C.F.R. § 80.1426(d)(1)(ii).

EPA Has Approved Numerous Other Similar Projects



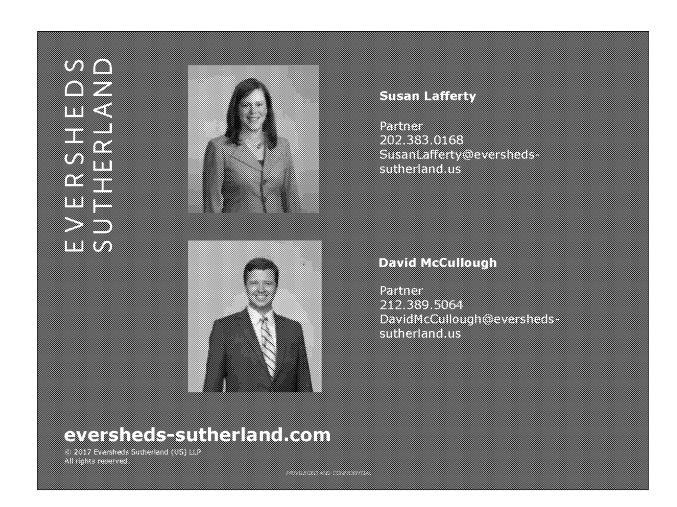
Many RIN generating landfills are located in regions where it is a certainty that the gas will be combusted prior to reaching the CNG or LNG fueling station to which the biogas is contractually sold. Many of these projects claim the gas is used in California but there is no way for the gas to flow from the landfill to California.

EPA Approved Biogas Projects

- EPA has approved dozens of biogas projects to generate RINs.
- These projects have generated over 430 million RINs, with a likely value of close to \$1 billion.
- With many of these projects it would be impossible for the gas to travel to the fueling station. For instance, a number of projects have been approved in Michigan, Ohio and Pennsylvania. This gas would be combusted in demand centers in that area and the East Coast—not in California and most likely not as transportation fuel.
- If EPA adds new regulatory requirements regarding actual molecular transport rather than displacement transport, doing so may call into question the validity of RINs already generated under displacement transport contracts. RINs are only valid if obligated parties believe they are valid (see numerous EPA enforcement actions against obligated parties).
- At the very least, obligated parties may decline to buy these RINs and instead opt for purchasing waiver credits—thereby significantly impacting the cellulosic RIN market and the jobs that these projects provide.
- Uncertainty could go as far as obligated parties requiring producers to provide replacement RINs.

A Determination is Due

- EDI's registration has been pending since November 2015.
- Since August of 2016, EDI and its predecessor in ownership (ESG) have sought to meet with EPA, in particular with the ultimate decision-makers.
- While no meetings have taken place, EPA has asked a series of questions and EDI and ESG have answered EPA's questions promptly.
- EDI and ESG have prepared detailed memoranda and accompanying slide decks for review by EPA.
- In every case, EDI and ESG have shown that the project meets EPA's established criteria, guidance and precedent; however, EPA has yet to make a decision on the registration application.



From: Dallas Baker [dallas.baker@neel-schaffer.com]

Sent: 7/17/2017 10:22:34 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Automatic reply: A&WMA Annual Conference & Coffee

I'll be out of the the office Tuesday 07/14 but I'll be checking emails. Calls and texts welcome. 601-953-7146 (cell)

Neel-Schaffer, Inc. Confidentiality Note:

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From: GfK Custom Research [chenderson@e1.surveys2.com]

Sent: 7/3/2017 12:31:03 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: REMINDER: Survey about Trust in the Media

Greetings,

We are asking Washington's leaders and public servants to answer an exclusive study to better understand how you consume and share media generated news and content in your job.

We appreciate your feedback and participation. In exchange for your help, we will be happy to share the results of the study with you later this year, and GfK will donate \$20 to your choice of three charities: The Wounded Warrior Project, The American Cancer Society, or The American Heart Association.

Greetings,

Please click on the link below to get started.

https://www.surveys.com/start.aspx?SurveyName=USC507516&ID=199580&ENC=J13FVuqGGKFjr6b9Wy72sdmCFW8

If clicking on the link does not work, cut and paste the link into your browser. We look forward to hearing from you! Thank you in advance for your participation!

Should you have content or technical questions, please contact: chenderson@e.surveys.com.

To unsubscribe from ask GfK, please click here:

https://unsubscribe.surveys.com/unsubscribe.aspx?r=199580&m=gunasekara.mandy@epa.gov&t=USC507516

Thank you in advance for participating. We look forward to hearing from you. For our in private policy please click on the link:

http://www.gfk.com/us/Pages/Research-Participant-Privacy-Policy.aspx

To reach us by mail: Reach us by mail at: GfK Panel Services 120 Eagle Rock Ave Ste. 200

East Hanover, NJ 07936-9848

From: Hilary Moffett [moffetth@api.org]

Sent: 7/13/2017 6:20:23 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Ozone

Hey Hey!

Wanted to reach out on ozone. API has come to a position and wanted to see when we would be able to come in and share our input. What are you thinking on timing—how can we be most helpful?

Thanks! Hilary

Hilary Moffett
Director, Federal Relations
American Petroleum Institute
202-682-8040 (desk)
612-710-8696 (cell)
MoffettH@api.org

From: Marcia Kull [Marcia.Kull@torqeedo.com]

Sent: 6/27/2017 10:09:02 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Thank you letter for NMMA Engine Manufacturer visit 6/2017

Attachments: Gunasekaralet62717.pdf

Dear Mandy-

Please see the attached letter.

Best regards,

Marcia Kull

Marcia Kull | President

Torquedo Group 171 Erick Street, Unit A-1 | Crystal Lake, IL 60014 P 1-815-444-8806 xt 312 | C 1-815-528-0404 | F 1-815-788-8301 |

website | map | vCard | email | facebook | confidentiality



VIA EMAIL: gunasekara.amanda@epa.gov

Torqeedo Group, Inc. 171 Erick Street, Unit A-1 Crystal Lake, IL 60014 June 27, 2017

Ms. Amanda Gunasekara Senior Policy Advisor for Air and Radiation United States Environmental Protection Agency

Re: NMMA Engine Manufacturer's Visit to EPA- June 20, 2017

Dear Mandy:

I wanted to thank the Administrator and you for your time at our meeting last week. I echo the statements of others in our group that it is a refreshing change of pace to sit collaboratively and work with the Agency on ideas to reduce burdensome regulation.

I hope we were clear in our statements that a strong, internationally recognized EPA is actually important benefit to all of us. By taking a leadership position in emission compliance, EPA regulations become, by default, the world norm. In lieu of enacting their own emissions regulations (and associated testing and certification requirements), other countries chose to recognize compliance with EPA regulations as the key to entering the new market. Canada and Australia are recent examples. And that saves our companies significant dollars.

I have worked with traditional spark ignition and compression ignition engines for over 25 years. In May of this year, I left my former employment as VP sales and joined Torqeedo, the world leader in electric propulsion for boats. Our US headquarters is in Crystal Lake, Illinois. We sell to a growing network of over 300 dealers and OEMs today. Similar to the electric automobile and bicycle trends, our sales are growing by double digits annually as more and more people discover the benefits of electric propulsion.

I read with interest EPA's FY 2016 annual report on the Agency's performance in meeting the environmental stewardship transportation requirements of the Energy Policy Act of 1992. Congratulations on consistently exceeding the goals of the Act.

While the "V" in PHEV usually stands for "vehicle," "V" can also stand for "vessel." EPA does own boats, and PHEVessels can also help the Agency continue its strong performance in reducing its GHG emissions from its own activities on the water. Many of the near-shore applications can benefit from electric power and help make on-water transportation more efficient and environmentally advantageous than ever before. We are reaching out to GSA to consider new marine propulsion technologies and assist in the expansion of electric and hybrid alternatives. And, we welcome any collaborative project with the Agency.

Thank you again for your time.

U_WKnel

Sincerely,

Marcia M. Kull President

Torqeedo, Inc.

Marcia.kull@torqeedo.com

From: Stephen Van Maren [vanmaren@alliancepolicy.org]

Sent: 6/28/2017 9:10:15 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dominguez, Alexander

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: Fwd: Alliance for Responsible Atmospheric Policy

Attachments: 29JUN2017 EPA-Alliance High-Level Meeting Anticipated Attendees.doc; 29JUN2017 EPA-Alliance High-Level

Meeting Agenda (Draft).doc

Mandy, Alex,

OK, so let's go for 1pm. We will probably need to cut out just before 2pm in order to make the subsequent meeting at State, but let's please budget for 1-2pm.

Thanks!

Steve

Stephen Van Maren

Director

Alliance for Responsible Atmospheric Policy

2111 Wilson Blvd., 8th Floor

Arlington, VA 22201 Tel: (703) 516-4118 Fax: (703) 243-2874

Email: <u>vanmaren@alliancepolicy.org</u> Website: <u>www.alliancepolicy.org</u> Follow us on Twitter: @AtmosPolicy

----- Forwarded message -----

From: **Dominguez**, **Alexander** < dominguez.alexander@epa.gov>

Date: Wed, Jun 28, 2017 at 5:07 PM

Subject: Alliance for Responsible Atmospheric Policy

To: "Gunasekara, Mandy" < Gunasekara. Mandy@epa.gov >, Stephen Van Maren

<vanmaren@alliancepolicy.org>

Cc: "Bolen, Brittany" <bolen.brittany@epa.gov>, "Dravis, Samantha" <dravis.samantha@epa.gov>, "Kime,

Robin" < Kime. Robin@epa.gov>

Location: 1200 Pennsylvania Avenue, NW (North) - Room 1332 WJCN

Directions: Please use the William Jefferson Clinton North Entrance located on your right as you exit the Federal Triangle Metro Station.

EPA Contact: For an escort from Security to the meeting call <u>202-564-1016</u> or <u>202-578-5985</u>
Request:
Attached
Attendees:
List Attached
Contact:
Stephen Van Maren
Director
Alliance for Responsible Atmospheric Policy
2111 Wilson Blvd., 8th Floor
Arlington, VA 22201
Tel: (703) 516-4118
Fax: (703) 243-2874
Email: <u>vanmaren@alliancepolicy.org</u>
Website: www.alliancepolicy.org



US Montreal Protocol and HFC Management Policy

US Environmental Protection Agency and the Alliance for Responsible Atmospheric Policy

June 29, 2017

10:00 - 11:00 am

US EPA Headquarters, Room 1332

Agenda

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II. Opening Comments

A. EPA

B. Alliance

III. Industry Perspectives

A. Domestic HFC management

B. International HFC management

1. Montreal Protocol

2. Multilateral Fund

C. Outlook

VIII. Discussion/Q&A

IX. Path Forward

A. Alliance Comments

B. ARB Comments

2111 WILSON BOULEVARD, 8TH FLOOR, ARLINGTON, VIRGINIA, USA 22201 Phone: +1-703-243-0344 • Fax: +1-703-243-2874 • Web: www.alliancepolicy.org



US Montreal Protocol and HFC Management Policy

US Environmental Protection Agency and the Alliance for Responsible Atmospheric Policy

June 29, 2017

10:00 - 11:30 am

Alliance Attendees

Alliance for Responsible Atmospheric Policy: Kevin Fay (Executive Director)

Arkema: Bill Hamel (Senior Vice President and General Counsel)

Daikin: Kirk Thorne (Executive Vice President of Sales and Marketing)

Honeywell: Ken Gayer (Vice President and General Manager of Fluorine Products)

Hudson Technologies: Brian Coleman (President and Chief Operating Officer)

Ingersoll Rand: Dave Modi (Vice President of Government Affairs)

Johnson Controls: Bill Jackson (President of Building Efficiency)

The Dow Chemical Company: Ralf Brinkman (President of Building and Construction)

United Technologies Corporation: Peter Holland (Vice President of Government Affairs)

2111 WILSON BOULEVARD, 8TH FLOOR, ARLINGTON, VIRGINIA, USA 22201 Phone: +1-703-243-0344 • Fax: +1-703-243-2874 • Web: www.alliancepolicy.org

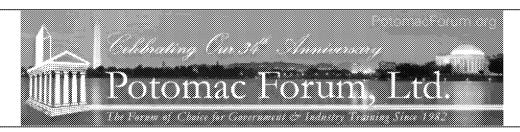
From: Gov Workforce Performance & Responding to EO [Training@GovernmentWorkforce.PotomacForum.org]

Sent: 6/27/2017 3:04:14 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: [SPAM] Tomorrow - On Site Registration Available for President's EO & Building an Efficient Organization



Yes - One Site
Registration Will be
Available
We Will Accept
Registrations at 7:30 am
Tomorrow - June 28th at the Willard
(In Response to Numerous
Requests)

Improving Agency
Workforce Effectiveness
- Workforce Requirements
and
the President's Executive
Order 13781
Training Workshop
June 28, 2017

Confirmed Speakers
Keynote: Terry Gerton
President & CEO
National Academy of
Public Administration
(NAPA)

Bob Corsi
Secretary of Board of
Directors
Senior Executives
Association (SEA)
Former Assistant Deputy
Chief of Staff for
Manpower, Personnel and
Services

Improving Performance - Workshop For All Executives, Managers and Staff -

Please Review and Forward to
Your Government Executives,
Managers and Staff
Who Play a Part in Improving their
Workforce Effectiveness and
Organization Meeting the Workforce
Requirements of the President's
Executive Order

Potomac Forum Training Workshop

The President's Executive Order:
How to Meet the Workforce
Requirements of the
President's Executive Order 13781
Training Workshop

What Federal Executives, Managers, and
Supervisors Need to Know
to Support the Goals of the Executive
Order for
Reforming the Federal Government and
Reducing the Federal Civilian Workforce

Date: Thursday, June 28, 2017

Sponsored by:

Headquarters, U.S. Air Force

Rebecca Ayers
Performance Management
Solutions, OPM

. . .

Tom Gilbert Assistant Director of Strategic Issues, GAO

10X 100 C

Deb Tomchek
Former Director of Human
Resources (HR)
DOJ and DOC

Jim Read
Director, Policy and
Evaluation
Merit Systems Protection
Board

Jeffrey Neal Senior Vice President, ICF Former CHCO at DLA and DHS

...

Dr. Fred Soto Supervisory Manager for Employee Engagement, Diversity and Veterans Outreach

Office of Energy Efficiency and Renewable Energy Department of Energy

- - -

Kimberly Steide
Program Manager for
Human Capital Planning,
HRSTAT, and Metrics
Department of the
Treasury

Dianne Hawkins
Program Manager,
Personnel Demonstration
Project
U.S. Army Research
Laboratory

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Location of Workshop: Willard InterContinental Hotel Washington, D.C.

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The Press is Not Permitted to Encourage Candid Discussion in our 100% Learning Environment

Who Should Attend:

- Federal supervisors and managers
- Federal HR practitioners and anyone responsible for implementing agency restructuring plans
- Inspector Generals and Staff
- Federal employees or members of employee affinity groups
- Communications practitioners responsible for leading change management and internal communications campaigns

Marcus Brownrigg
Strategic Partnership and
Communications Advisorz
Office of the CEO
Corporation for National
and Community Service
(CNCS)

Lou Kerestesy Founder & CEO GovInnovators

Mika Cross Federal Workplace Expert

From: NAPA Management Matters, June 21, 2017

How to Meet the Workforce Requirements of the President's Executive Order 13781 Training Workshop

The president issued an executive order (EO) on March 13, 2017 which requires agencies to plan and implement long-term workforce reductions and incorporate the plan as a government-wide workforce priority into their Agency Strategic Plan and/or Human Capital Operating Plan

This Potomac Forum training workshop for government will provide information for agency executives, managers, and staff to respond to the EO.

Experienced human capital executives and experts will share their insight and experience in developing and implementing long-term and near-term workforce management practices that will help attendees understand how best to improve performance, increase accountability, and reduce costs.

This workshop will provide you with practical, easy-to-implement tools and resources to help you achieve the best results through your agency's efforts to restructure, reshape and eliminate inefficient functions to achieve the goals of EO 13781 while enhancing employee performance to increase mission efficacy and increase retention.

The Keynote Address will be given by Terry Gerton, Academy President and CEO

Overview: In addition to discussing the implementation of the President's EO, 14 experienced workforce executives and experts will share their insight and experience in developing and implementing long-term and near-term workforce management practices that will help attendees understand how best to improve performance, increase accountability, and reduce costs.

This workshop will provide you with practical, easy-to-implement tools and resources to help you achieve the best results through your agency's efforts to restructure, reshape and eliminate inefficient functions to achieve the goals of EO 13781 while enhancing employee performance to increase mission efficacy and increase retention.

Format:

Lecture, guest speakers, and practical exercises.

CEUs Awarded Upon Workshop Completion

Press is NOT Invited to Register or Attend

In Response to Numerous Requests

Yes - One Site Registration Will be Available at the Willard InterContinental Hotel

We Will Accept Registrations starting at 7:30 am Tomorrow - June 28th - at the Willard

We will have registration staff available for On Site Registration

"Send-A-Team" Registration Fees

No Press to Promote Candid Discussion

Registration and Information:

www.potomacforum.org

Call: (703) 683-1613 Info@PotomacForum.org

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This email was sent to: gunasekara.amanda@epa.gov

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This email was sent by: Potomac Forum, Ltd. 400 North Washington Street , Alexandria , Virginia, 22314 , USA

From: Stuart Jolly [jo Ex. 6 m

Sent: 7/13/2017 12:47:32 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Hi Mandy

When you have a quick second, give me a shout. I had dinner with Kevin C last night and I have him something for you. Let's chat.

Thank you

Stuart Jolly 4 **Ex.6**

From: Riddle, Ken [Ken.Riddle@lakelandelectric.com]

Sent: 6/27/2017 9:57:46 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Call Me If Possible

I have a few questions.

Ken Riddle 863-660-3626

Sent from my iPad

.....

PUBLIC RECORDS NOTICE:

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From: Peter Mihalick [pmihalick@federaladvocates.com]

Sent: 6/30/2017 4:07:25 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: EPA Region III - Appointee **Attachments**: resume Jan 2017.doc

Mandy-

Good talking to you the other day – took me a moment to track down your email.

Anyway, here's the candidate resume I mentioned to you on LinkedIn, and I would greatly appreciate it if you could pass it along to whomever is making those decisions.

Let me know if there's anything else I can do.

Sincerely,

Peter

__

Peter J. Mihalick, Esq.
Director of Government Affairs
Federal Advocates, Inc.
1666 K Street, NW
Suite 1110
Washington, D.C. 20006
pmihalick@federaladvocates.com
(202) 626-3033

LYNN YERGES BUHL

Personal Matters / Ex. 6

Annapolis, MD 21401

Phone: (Home) Personal Matters / Ex. 6
E-mail: Personal Matters / Ex. 6

Citizenship: United States of America

AREAS OF EXPERTISE

Regulatory Compliance * Eco-Business Innovation * Environmental Advocacy
Cost Control * Strategy Development * Brownfield Redevelopment
Liability Analysis & Resolution * Consensus Building * Public Policy Liaison

FEDERAL, STATE AND PRIVATE SECTOR EXPERIENCE

Administration of Maryland Governor Larry Hogan Maryland Department of the Environment

Assistant Secretary (December 21, 2016-present)

Responsible for internal & external coordination of initiatives relating to the Chesapeake Bay, including development of Watershed Implementation Plan #3, market-driven nutrient trading, public private partnerships, and update of wetland regulations.

Senior Advisor (April-September 2015) & Director of the Water Management Administration (September 2015-December 2016)

Oversight of efforts to advance Governor Hogan's agenda to change Maryland for the better, especially improved customer service and, regulatory reform.

US Environmental Protection Agency

Regional Administrator, Region V Office, Chicago, IL (August 2008-January 2009)

Re-energized EPA's largest regional office with focus on Great Lakes' sediment/water-quality remediation projects, outreach efforts toward state and municipal officials and personal attention to key cases and delays in agency decision-making.

Major Contributions:

- Restored staff confidence in agency leadership; promptly addressed two key highlevel position vacancies.
- Boosted public profile of Great Lakes sediment remediation projects to increase new cleanup projects and reduce sediment pollution.
- Forged progress on stalled high-profile Michigan remediation project that quieted public suspicion of EPA's commitment to project.

Deputy Assistant Administrator, Office of Enforcement & Compliance Assurance, Washington, DC (September 2006-August 2008)

Key advisor to Assistant Administrator on enforcement policy and priorities. Superior at completing special assignments and resolving long-stalled initiatives. Adept at soliciting views, encouraging innovation and building consensus. Instrumental in resolving conflict or inconsistency with or between regional offices, agency program offices and other executive departments.

Major Contributions:

- Drove precedent-setting Memorandum of Agreement that delegated specific federal enforcement responsibility to Wisconsin.
- Secured agency-wide approval of guidance under the Resource Conservation & Recovery Act clarifying when federal enforcement on tribal lands is warranted.
- Guided the drafting of documents that led Department of Justice to confirm EPA's enforcement authority over federal military facilities.
- Coordinated regional office completion of "Environmental Justice Smart Enforcement Assessment Tool" to integrate environmental justice into OECA work.

Administration of State of Maryland Governor Robert L. Ehrlich, Jr. Annapolis, MD (February 2003- February 2006)

Governor's top advisor on environmental issues and policy development. Ensured multiple departmental activities were aligned with governor's overall agenda. Coordinated and prioritized legislative proposals and policy recommendations. Represented governor at meetings and events to promote his initiatives. Repeatedly demonstrated poise and professionalism under pressure, credibility, disciplined decision-making and reliability.

Major Contributions:

- Exhibited extraordinary commitment and flexibility in serving governor in 3 roles: Acting Secretary of Dept. of Environment, Special Secretary of Dept. of Planning and Deputy Secretary of Dept. of Natural Resources.
- As co-chair of governor's task force, drove development and legislative approval of reforms to Maryland's voluntary site cleanup program after convening interested & diverse stakeholders and securing consensus on a slate of recommendations.
- As Deputy Secretary at DNR, directed all internal matters including personnel, policy development and program adjustments.

Michigan Department of Environmental Quality

Director of the Southeast Offices, Detroit, MI (June 1999-December 2002)

Coordinated headquarters priorities with activities of 2 district offices in the state's most populous region. Elevated agency participation in dialogue with regional government officials and the federal court to address water and wastewater issues. Directed high-level settlement negotiations, rule promulgation and other special assignments.

Major Contributions:

- Assured active department role in major brownfield redevelopment projects, Detroit's wastewater and stormwater management efforts and Rouge and Detroit River restoration projects.
- Directed handling of controversial remediation project that resulted in public approval of inner-city school construction project.
- Chaired rulemaking effort to improve regulations for state's clean-up statute.

DaimlerChrysler Corporation

Senior Staff Counsel, Environmental Legal Affairs, Auburn Hills, MI (1988 to 1999)

Supplied needed legal expertise and innovation to Superfund and Resource Conservation and Recovery Act defense work, voluntary remediation at company-owned sites, facility deactivation issues, real estate transactions and environmental due diligence.

Major Contributions:

- Instrumental in Chrysler emerging as a national leader in brownfield redevelopment.
- Identified by the Environmental Law Institute in 1995 as a "Person to Know" in the environmental field.
- Consistently demonstrated an innovative, problem-solving approach.
- Chaired the Superfund Reauthorization Task Force of the American Automobile Manufacturers Association, and in that capacity testified three times before Congressional panels and represented the industry in federal legislative negotiations. (1993-98)

Grassroots Volunteer Work

Board Member & Officer (2010-2014) South River Federation, Anne Arundel County, Maryland

Gained knowledge of challenges and potential of smaller environmental advocacy groups in addressing water quality issues in the Chesapeake Bay watershed. This proactive and well-regarded environmental group seeks to educate, restore and celebrate the South River, a primary tributary to the Bay.

Trustee (1989-98) and Chairman (1994-98) of the Board of the Higgins Lake Foundation, Roscommon, Michigan

Brought professional environmental expertise to a grass-roots organization dedicated to preserving and protecting the quality and beauty of the lake. Over ten years, led successful efforts to raise \$1 million and begin addressing sources of nutrient loading into the lake attributable to surface water runoff, septic systems and high winter lake levels.

US Environmental Protection Agency

Assistant Regional Counsel, Region V Office, Chicago, IL (February 1986-April 1987) Advocated agency position in Superfund and RCRA enforcement cases, handling settlement negotiations at 15-20 Superfund sites, filing administrative motions orders, and preparing for administrative hearings as necessary.

Attorney-Advisor, Office of the Administrator, Washington, DC (February 1985-February 1986)

Acted as Congressional liaison for the CERCLA Reauthorization Task Force, facilitating discussion of legislative initiatives relating to amending and reauthorizing the Agency's Superfund program.

Office of Congressman Bob McEwen

Special Projects Coordinator, Washington, DC (May 1982-May 1984)

Staff member responsible for Congressman's participation on the Committee on Public Works and Transportation; focused on Army Corps of Engineers projects beneficial to the southern Ohio district. Monitored the appropriations process and drafted testimony for the Congressman's appearances before Congressional committees.

Office of Senator John C. Danforth

Staff Assistant, Washington, DC (June1977- August 1978)

Multiple office duties, including correspondence, assistance to the press secretary and hearing monitoring.

EDUCATION

Wake Forest University School of Law Winston-Salem, North Carolina J. D., 1981

University of Virginia Charlottesville, Virginia B.A., American Government, 1977

Admitted to State Bar of Michigan and District of Columbia Bar.

REFERENCES AVAILABLE UPON REQUEST

From: Joe Bischoff [JBischoff@cgagroup.com]

Sent: 6/29/2017 7:28:13 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Sorghum

Mandy,

Thank you for spending a considerable amount of time with the sorghum producers today. As you could hear in our conversations, these folks have been dragged along for years costing them precious resources and putting them at a competitive disadvantage to other crops. They've lost 25-30% of their acres in recent years in part to this issue and the new invasive pest that was briefly discussed today.

Good seeing you again and please don't hesitate to reach out if I can be a resource.

Thanks again Joe

Sent from my iPhone

Joe Bischoff, PhD Cornerstone Government Affairs (202) 440-0388 mobile | (202) 448-9540 direct

From: Steve Millo **Ex. 6**Sent: 6/27/2017 2:45:02 AW

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Fwd: FYI: New Harvard PM 2.5 Study--->Request Medicare Data

Begin forwarded message:

From: "James E. Enstrom"

Ex. 6

Subject: RE: FYI: New Harvard PM 2.5 Study--->Request Medicare Data

Date: June 26, 2017 at 10:43:20 PM EDT

To: 'Steve Milloy'

Ex. 6

Cc: 'stan young'

Ex. 6

This cohort was analyzed in 2007-2008 by Zeger, Dominici, and Samet and their mixed findings (nothing in CA) are not even cited in article or editorial, even though Dominici is a co-author on both analyses. Of course they do not cite null findings properly or at all. The Medicare data should be publicly available and you should request it ASAP. Editorial proves that Drazen is a biased activist—he rejected both my 2005 and 2017 papers.

Schwartz is an ABSOLUTE DISGRACE to both physics and epidemiology! It is now the Green (Blue) scientists versus the Red scientists. The Greens (Blues) will probably win, unless the Reds get help from POTUS.

NEJM study and editorial. Steve

From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 7/13/2017 6:13:24 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dominguez, Alexander

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: Ozone

Mandy and Alex,

Thanks for meeting with us today. Hopefully that was helpful.

Mandy, you mentioned that you needed feedback on the 2 options on ozone within a week. I wanted to see if you guys had time sometime next week for another meeting or phone call with me and Tim Peterkoski, who is our Environmental Auditing & Processes Manager. Tim is in charge of these types of regulations for our entire company and has been working on the ozone issue a lot lately. I know he has a lot to contribute and would love to weigh in with you all before you make a decision.

Thank you in advanced for your consideration and we hope to speak to you soon.

Mike

Michael Birsic
Marathon Petroleum Corporation
1201 F Street, NW, Suite 625
Washington, DC 20004

Direct: 202-442-2459 Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com

From: Rebecca Combs-Dulaney [rcombsdulaney@gmail.com]

Sent: 7/10/2017 4:36:11 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: Clerical Error

Thanks Mandy.

Sent from my iPhone

On Jul 10, 2017, at 11:30 AM, Gunasekara, Mandy < Gunasekara. Mandy @epa.gov > wrote:

Rebecca,

I'm cc'ing you with my colleague Patrick Traylor who recently joined EPA and is the new Deputy Assistant Administrator for the Office of Enforcement and Compliance Assistance. He will be in the best position to assist with you in this matter.

Best, Mandy

From: Rebecca Combs-Dulaney [mailto:rcombsdulaney@gmail.com]

Sent: Monday, July 10, 2017 12:13 PM

To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Barrino, Reginald <Barrino.Reginald@epa.gov>

Subject: Clerical Error

Mandy,

As you can see our Environmental Engineer Consultant, Andrew Covington received this email from Eddie Chow in the Atlanta office on Thurs. I was not cc:d on this by Mr. Chow even though he is aware of my participation in this matter. Mandy, this is outrageous. Structural Steel Services committed a clerical error only, by failing to report the zinc dust levels, etc which emissions are absolutely allowable under EPA designation. We still don't know how it happened, but our long-time employee who has worked within the EPA rulings for 42 years, simply didn't include them in his report. As I stated it is an allowable practice - no environmental violation was committed. We would never, and I repeat, never, do that.I

As you know we submitted a SEP to reduce the clay dust created by the use of very heavy equipment which has a demonstrated precedent out of Oregon. This was the only correlation with could find with the emission of zinc dust.

We are only doing allowable practices. We have corrected the reporting issue.

Mr. Chow, and Ms. White have not been helpful in any way, and now this. The Atlanta office is wholly out of line here. We are a company that only practices best practices in every sense.

We have corrected the reporting error. This issue and the money we have expended on this for over a year is utter nonsense. It has prevented us from hiring additional employees to keep up and expand our business because this has become an unknown and out of hand expense.
Please, can you get this utter nonsense to stop? Rebecca
From: Chow, Eddie [mailto: Chow. Eddie@epa.gov]
Sent: Thursday, July 06, 2017 10:47 AM
To: Andrew Covington acovington@AllenES.com Cc: White, Erika White.Erika@epa.gov >; Bookman, Robert Bookman.Robert@epa.gov > Subject: Supplemental Environmental Project for Structural Steel
Mr. Covington,
Thank you for submitting the SEP proposal. In order for us to fully consider the proposed SEP we would need you to specify which of the TRI chemical(s) would be addressed by the SEP. Please quantify the amount of the chemical(s) released and how much of a reduction would the paving achieve. Also please indicate if any of the TRI chemicals(s), to be addressed by the SEP, are already required to be controlled under a permit.
Kind regards,
Eddie Chow
U.S. EPA – Region IV
Chemical Management & Emergency Planning Section

Rebecca Combs-Dulaney Vice President Structural Steel Services, Inc. PO BOX 2929 6210 St. Louis St. Meridian, MS 39302 601-616-4428 (cell) 601-483-5475 (fax) rcombsdulaney@gmail.com

 From:
 Steve Milloy [r]
 Ex. 6

 Sent:
 6/27/2017 2:44:41 AM

Sent: 6/2//201/ 2:44:41 AIVI

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Fwd: FYI: New Harvard PM 2.5 Study

Begin forwarded message:

To: Steve Milloy < Ex. 6 , "James E. Enstrom" < Ex. 6

Steve: Air quality is estimated with "with the use of previously validated prediction models." I've superficially looked at these models and they look like junk, lots of tuning variables. Stan

From: Steve Milloy Ex. 6
Sent: Monday, June 26, 2017 10:04:23 PM

To: Stan Young; James E. Enstrom

Subject: Fwd: FYI: New Harvard PM 2.5 Study

NEJM study and editorial. Steve

From: D'Angelo, Wayne J. [WDAngelo@KelleyDrye.com]

Sent: 6/26/2017 10:04:50 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Traylor, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=b6d06c6b766c4b4b8bfdf6b0fea4b998-Traylor, Pa]

Subject: RE: E-connect

Thank you, Mandy! Patrick, Congratulations on the new position! We've met through IPAA and ELI a few times, but the list of people you know through those organizations is probably pretty long so no worries if you don't remember. If time allows, I would like to be able to connect on some issues related to air permitting and enforcement in the steel industry. If there is a particular time where you could spare a few minutes for a call, please let me know. Thanks in advance, and congratulations again on your appointment.

Regards, Wayne D'Angelo

Wayne D'Angelo

Kelley Drye & Warren LLP (202) 342-8525 | wdangelo@kelleydrye.com

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, June 26, 2017 5:19 PM

To: D'Angelo, Wayne J. <WDAngelo@KelleyDrye.com>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>

Subject: E-connect

Wayne,

Great catching up for a bit. I've cc'd Patrick Traylor who is our Deputy AA for OECA and the best point of contact for you. Patrick, as I mentioned, Wayne works at Kelley Drye and our paths have crossed relative to his work with the Steel Manufacturers Association.

I hope you both can find a time to connect.

Best, Mandy

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From: Patrick Currier [currier@s2cpacific.com]

Sent: 7/7/2017 4:23:09 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: Utility Roundtable

Great, thanks! Let's shoot for 11am. I'm pretty confident the press call won;t go a full hour but I'll email you if it starts to run long.

Yes, only one number off 90210. So close!

See you soon!

Patrick T. Currier
Partner | S2C Pacific
8730 Wilshire Blvd., Ste. 350 | Beverly Hills, CA | 90211
+1.310.596.5415 | currier@s2cpacific.com
www.s2cpacific.com

On Fri, Jul 7, 2017 at 9:12 AM, Gunasekara, Mandy < <u>Gunasekara Mandy@epa.gov</u> > wrote: 11 am works. Or 11:15 if you need some buffer time. I'll just meet you then.

Also, I love the Beverly Hills, CA address #sofancy

Sent from my iPhone

On Jul 7, 2017, at 12:00 PM, Patrick Currier < <u>currier@s2cpacific.com</u>> wrote:

Yo, hate to do this but Shane has roped me into doing a press call next Wednesday morning for an Aii grid modernization paper we're releasing. Call is slated to run from 10am-11am, which conflicts with our coffee talk. Any chance we can do 9 or 11 that morning? I'm also pretty open Thursday, 7/13, after 10:30am.

Patrick T. Currier
Partner | S2C Pacific
8730 Wilshire Blvd., Ste. 350 | Beverly Hills, CA | 90211
+1.310.596.5415 | currier@s2cpacific.com
www.s2cpacific.com

On Thu, Jun 22, 2017 at 2:17 PM, Patrick Currier < currier@s2cpacific.com > wrote: Awesome, thanks! Looking forward to it!

Sent from my iPhone

On Jun 22, 2017, at 12:36 PM, Gunasekara, Mandy < Gunasekara. Mandy @epa.gov > wrote:

Let's meet at 1030 at the trump hotel Starbucks. See you then!

Sent from my iPhone

On Jun 22, 2017, at 2:53 PM, Patrick Currier < currier@s2cpacific.com> wrote:

How's Wednesday morning, July 12th, look for coffee? I'm good anytime up until noon.

Sent from my iPhone

On Jun 20, 2017, at 2:35 PM, Gunasekara, Mandy Gunasekara.Mandy@epa.gov wrote:

Ok – perfect.

From: Patrick Currier [mailto:currier@s2cpacific.com]

Sent: Tuesday, June 20, 2017 4:55 PM

To: Gunasekara, Mandy

< Gunasekara. Mandy@epa.gov > Subject: Re: Utility Roundtable

Great, I'm setting up some hydro infrastructure meetings with Catanzaro and CEQ folks those days. Let me see how those shake out and then I'll circle back.

Patrick T. Currier

Partner | S2C Pacific

8730 Wilshire Blvd., Ste. 350 | Beverly Hills, CA | 90211

+1.310.596.5415 | currier@s2cpacific.com

www.s2cpacific.com

On Tue, Jun 20, 2017 at 1:32 PM, Gunasekara, Mandy < Gunasekara. Mandy @epa.gov > wrote:

Yes! Let's grab coffee. I'm extremely flexible Tuesday, July 11 and Wednesday, July 12. There is a "tremendous" Starbucks across the street © meet you there whatever time works.

Thank you for your help in setting up the meeting with John. He had to run out before the meeting was over, but he and his members that attended were great.

Look forward to catching up soon!

From: Patrick Currier

[mailto:<u>currier@s2cpacific.com]</u> **Sent:** Tuesday, June 20, 2017 4:18 PM

To: Gunasekara, Mandy

<<u>Gunasekara.Mandy@epa.gov</u>> **Subject**: Utility Roundtable

Hey there!

So how did it go? Successful I hope. Would enjoy picking your brain on potential next steps once you've had some time to digest all the input you guys received yesterday. I'm back in DC week of July 10th if you're around to catch up over coffee or drinks or cinnabons.

Hope all else is well!

-Patrick

Patrick T. Currier

Partner | S2C Pacific

8730 Wilshire Blvd., Ste. 350 | Beverly Hills, CA | 90211

+1.310.596.5415 | currier@s2cpacific.com

www.s2cpacific.com

From: Dallas Baker [dallas.baker@neel-schaffer.com]

Sent: 7/12/2017 12:35:49 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Fwd: A&WMA Annual Conference & Coffee

Wrong email (again). Sorry. Read below.

Any luck?

.....

Dallas Baker, P.E., BCEE

Director of Environmental Services

Neel-Schaffer, Inc.

1022 Highland Colony Parkway, Suite 202

Ridgeland, MS 39157 Office: 601.499.0653 Cell: 601.953.7146

Receptionist: 601.898.3358

Email: <u>dallas.baker@neel-schaffer.com</u>
Website: www.neel-schaffer.com

From: Dallas Baker

Sent: Monday, July 10, 2017 10:56:38 AM

To: Mandy Gunasekara

Subject: RE: FW: A&WMA Annual Conference & Coffee

Mandy: as an update, we are holding a planning call today at 12:00 ET. I'll inform my team that I have reached out to you and will hear back. We'd love for you to be a part of this important event with the American Bar and Air & Waste Management Association on July 25. I've done about 30 of these webinars, and they're a lot of fun (your portion would be about 20 minutes, in fact). Joe Goffman helped us out on the Clean Power Plan a couple of years ago. It's good to hear from D.C.!

Dallas Baker, P.E., BCEE

Director of Environmental Services

Neel-Schaffer, Inc.

1022 Highland Colony Parkway, Suite 202 Ridgeland, MS 39157 Office: 601.499.0653 Cell: 601.953.7146 Receptionist: 601.898.3358 Email: dallas baker@neel-schaffer.com

Email: dallas.baker@neel-schaffer.com Website: www.neel-schaffer.com

From: Mandy Gunasekara Personal Email / Ex. 6

Sent: Wednesday, July 05, 2017 3:29 PM

To: Dallas Baker <dallas.baker@neel-schaffer.com>
Subject: Re: FW: A&WMA Annual Conference & Coffee

Hi Dallas,

Sorry I missed you at the Pittsburgh event but glad to hear it went well. I ended being pulled into the G7 trip, which was a great experience. I'm not sure about participating in a webinar - I believe there are special considerations on my end. Let me check on that process and I'll get back to you.

I hope you are well.

Best, Mandy

On Mon, Jul 3, 2017 at 2:53 PM, Dallas Baker < dallas.baker@neel-schaffer.com > wrote:

Mandy,

Sorry I missed you in Pittsburgh back in June. I understood work took you out of the country? Oh the stories I bet you could tell. But the panel session went well – your co-panelists covered nicely. We appreciate your willingness to be a part of our program.

By chance, would you accept an invitation to play substitute to a cancellation in a webinar panel coming up July 25? Tim Profeta developed a conflict and we're trying to get his replacement to the attached Webinar - jointly produced with the ABA and A&WMA. Interested? I think our two memberships would really appreciate your perspective.

.....

Dallas Baker, P.E., BCEE (Past President, A&WMA)

Director of Environmental Services

Neel-Schaffer, Inc.

1022 Highland Colony Parkway, Suite 202 Ridgeland, MS 39157 Office: 601.499.0653

Cell: 601.953.7146 Receptionist: 601.898.3358

Email: dallas.baker@neel-schaffer.com Website: www.neel-schaffer.com

From: Dallas Baker

Sent: Tuesday, May 16, 2017 2:51 PM

To: 'Gunasekara, Mandy' < <u>Gunasekara.Mandy@epa.gov</u> > **Subject:** RE: A&WMA Annual Conference & Coffee

It's a plan! Talk in PA.

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Tuesday, May 16, 2017 2:35 PM

To: Dallas Baker < <u>dallas.baker@neel-schaffer.com</u>> **Subject:** RE: A&WMA Annual Conference & Coffee

I have yet to get my flight details, but let's plan to touch base immediately after the panel discussion. We can figure out where to meet once we get there.

I'm also just noticing that you are at a Neel Schaffer address – congrats on your new position as well!

Look forward to catching up soon, Mandy

From: Dallas Baker [mailto:dallas.baker@neel-schaffer.com]

Sent: Tuesday, May 16, 2017 12:27 PM

To: Gunasekara, Mandy < <u>Gunasekara.Mandy@epa.gov</u> > **Subject:** FW: A&WMA Annual Conference & Coffee

Mandy: great to hear from you. Let's connect somehow in Pittsburgh. So much is going on. You're likely getting these handed to you, but just in case you're not....

I was a proud member of AAPCA, and am sure you saw this recent letter my friend Clint wrote, FYI: http://www.csg.org/aapca_site/documents/AAPCA-EPARegulatoryReform-DocketIDEPA-HQ-OA-2017-0190-5-15-17.pdf

And a similar one written by ECOS: https://www.ecos.org/wp-content/uploads/2017/05/ECOS-Comments-on-EO-13777.pdf

.....

Dallas Baker, P.E., BCEE

Director of Environmental Services

Neel-Schaffer, Inc. 1022 Highland Colony Parkway, Suite 202 Ridgeland, MS 39157

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Email: dallas.baker@neel-schaffer.com Website: www.neel-schaffer.com

From: Mandy Gunasekara

Personal Email / Ex. 6

Sent: Tuesday, May 16, 2017 11:21 AM

To: Dallas Baker dallas.baker@neel-schaffer.com Cc: Bonnie Morgan bonnie.morgan@neel-schaffer.com Subject: Re: A&WMA Annual Conference & Coffee

Dallas- great to hear from you! Let's definitely plan for coffee. Can you shoot me an email to my official account: <u>Gunasekara.mandy@epa.gov</u>

Bonnie is great!

Sent from my iPhone

On May 12, 2017, at 10:36 AM, Dallas Baker < dallas.baker@neel-schaffer.com> wrote:

Mandy,

You may recall Alice Perry and I visiting you while accepting the Senators' invitation to testify in the summer of 2015. Quite the experience, and my how times have changed since then!

Congratulations on your new appointment with EPA. Our mutual friend Bonnie Morgan discretely gave me your gmail address; hope you don't mind. I wanted to reach out and see if you and I could have a few minutes together in Pittsburgh Thursday, June 8. I understand you are invited to speak at the morning session titled, "Clean Power Plan (CPP) Litigation Updates and Road Ahead." That should be a standing room only! If you're making the trip, perhaps afterwards we could grab coffee? As a former Air Director from Mississippi, and a Past President of A&WMA, my perspectives of implementing environmental policy at the state level, and how states vary in advocacy, would perhaps shed light into the amazing transformation the Administration is orchestrating. I commend the work, but have some cautions towards unintended consequences. I'm very impressed with Administrator Pruitt's first weeks in D.C. and would like to help in any way. (So does Bonnie, by the way!)

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Dallas Baker, P.E., BCEE

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From: Green, Joseph J. [JGreen@KelleyDrye.com]

Sent: 7/12/2017 7:21:47 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Traylor, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=b6d06c6b766c4b4b8bfdf6b0fea4b998-Traylor, Pa]

Subject: RE: Manganese follow up - SH bell Co.

Attachments: MIG Supplemental Response to Motion.pdf; SH BELL COURT ORDER JULY 7 (J2245282x7AD79).pdf

Hi Mandy -

I'm following up on some developments related to the manganese issues we discussed previously during the steel (SMA) meeting in May. I've cc'd Patrick Traylor whom I have not yet met (hello Patrick) but understand has had some questions about the SH Bell matter.

Today, we received an order from the federal district court in Ohio reviewing the pending SH Bell consent decree. The court directs DOJ to respond by July 21 to our supplemental submission to the court filed on June 30. Copies of both are attached. Our supplemental submission addresses a key factor that has slid under the radar regarding the community studies by Dr. Bowler and others that have been conducted in the East Liverpool, Ohio area and were cited by DOJ in the complaint.

In short, we challenge why the study authors have not explained how the data from the Mn-exposed population in East Liverpool compares to the control population results from an "unexposed" community (Mt. Vernon, OH) or to the general US population. (I.e., were there statistically significant differences in results between the control and study populations? ... if there were, it would be surprising if they were not reported). Moreover, a similar study comparing the Mn-exposed population in Marietta, Ohio to the Mt. Vernon and general US control populations showed that the test results were all within the "normal range." The subtle differences that were allegedly teased out by the study authors were within the "normal" range, and, accordingly, not "adverse." The authors also have reported that the results from East Liverpool and Marietta were similar – hence, we believe that there is nothing "outside the norm" for East Liverpool as well.

The court has now asked DOJ to respond.

Thank you for your interest in this matter. Please let me know if you have any questions or would like to discuss.

Regards, Joe

JOSEPH J. GREEN

Special Counsel Kelley Drye & Warren LLP (202) 342-8849 JGreen@KelleyDrye.com

From: Green, Joseph J.

Sent: Thursday, May 25, 2017 12:59 PM

To: 'gunasekara.mandy@epa.gov' <gunasekara.mandy@epa.gov>

Subject: Manganese follow up

Mandy -

It was great meeting you at the SMA meeting yesterday. I know everyone appreciated your taking the time to talk about the Administration's priorities and to listen to some of the issues facing the steel industry.

Following up on the manganese matter, attached are some documents that provide background on our concerns related to how EPA and DOJ have addressed perceived concerns with manganese emissions, including in the East Liverpool, Ohio area. I have included the following documents:

- * Talking points summarizing the core concerns with the pending SH Bell consent decree.
- * Two sets of comments filed by the Manganese Interest Group on the SH Bell consent decree (original and response comments) that provide more detail on our concerns. [Note that the court has yet to approve entry of the decree, possibly in response to the questions we raised regarding the baseless allegation that manganese emissions pose a risk to the community.]
- * A short summary of scientific concerns with the technical basis for the SH Bell consent decree.
- * A one-page overview of some of the fundamental science issues related to manganese toxicology and, in particular, the outdated IRIS reference concentration.

As the head of the Manganese Interest Group (which is comprised of companies and trade associations in the steel, ferroalloy, chemical, and other industry sectors), I would be happy to answer any questions you may have or provide additional information. If you think it would be useful for me or other members of the Group to speak others at EPA or in the Administration, please let me know.

Again, your time and attention to this issue is greatly appreciated.

Regards, Joe

JOSEPH J. GREEN

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Second Submission of the Manganese Interest Group (MIG) regarding United States' Memorandum in Support of Motion for Entry of Consent Decree

United States v. S.H. Bell Company Civil Action No. 4:17-cv-00131-BYP D.J. Ref. No. 90-5-2-1-11688/1

June 30, 2017

Submitted via Electronic Mail to:
Assistant Attorney General
U.S. Department of Justice
Environment and Natural Resources Division
P.O. Box 7611
Washington, D.C. 20044-7611
pubcomment-ees.enrd@usdoj.gov

cc: Clerk of the Court, United States District Court, Northern District of Ohio, Eastern Division

U.S. Department of Justice Docket No. OLP 164

Submitted by counsel on behalf of the Manganese Interest Group: Joseph J. Green
Kelley Drye & Warren, LLP
3050 K Street, N.W.
Washington, D.C. 20007
202.342.8849
JGreen@KelleyDrye.com

Executive Summary

The Manganese Interest Group ("the Group" or "MIG")¹ writes to provide the Department of Justice ("DOJ") and U.S. Environmental Protection Agency ("EPA") with newly available information relating to the Regional Applied Research Effort ("RARE") on which DOJ and EPA have relied to support legal action against S.H. Bell. This newly available information highlights several critical unanswered questions about the RARE study on which DOJ and EPA rely to support their allegation that manganese emissions in East Liverpool, Ohio present "an imminent and substantial endangerment." These questions include:

- Why has the lead researcher for the RARE study (Dr. Bowler) nowhere reported in her peer-reviewed papers how the normalized data for the manganese exposed East Liverpool, Ohio residents compares to the normalized data for the *unexposed* Mount Vernon, Ohio residents evaluated in an earlier part of her study? That Dr. Bowler has not reported any statistically significant differences in these two cohorts from her study *suggests there are*, *in fact, none, just as there were none of material note when comparing the normalized data from manganese exposed Marietta*, Ohio residents to the normalized data for the unexposed Mount Vernon, Ohio residents.
- Why has Dr. Bowler nowhere explained in her peer-reviewed papers how the normalized data from the manganese exposed East Liverpool, Ohio residents compare to "standardized" data for the general population as a whole? As with the first question noted above, that Dr. Bowler has not reported clear demarcations between the performance of East Liverpool, Ohio residents and the performance of the general population as a whole suggests there are, in fact, no such clearly identifiable demarcations.

If all or most of the normalized data from the RARE study fit within the standardized data for the general population as a whole, as appears likely for the reasons explained more fully below, the purported associations between modeled exposures to manganese in air and test performance in Marietta and East Liverpool, Ohio residents reported by Dr. Bowler do not qualify as evidence of an "adverse" effect (since "normal" performance is "normal" performance), much less "an imminent and substantial endangerment" to either Marietta or East Liverpool, Ohio residents.

Critical Unanswered Questions about the RARE Studies

In a "short communication" published in *Science of the Total Environment* earlier this month, Rosemarie Bowler defends her research teams' "finding of Mn-related effects in East Liverpool" Ohio relating to tremor and motor function as reported in Bowler, et al.

As previously noted, MIG is an ad hoc coalition of trade associations and companies interested in the scientifically sound evaluation and regulation of manganese. Membership is comprised of steel producers, metalworkers, chemical manufacturers, ferroalloy producers, and other similar stakeholders.

2016.² Among other things, Dr. Bowler observes that all "participants' raw test scores were standardized using well-established normative data which adjusted the psychomotor test scores based on age, sex, and education." For this reason, Dr. Bowler asserts "the normalized data were sufficient to explain any confounding by age, sex and education." Despite these assertions, there are several critical unanswered questions about the reported RARE results that neither Dr. Bowler's recent comments, nor her published papers concerning East Liverpool, Ohio, adequately address.

First, Dr. Bowler has nowhere explained why her 2015 and 2016 East Liverpool papers do not address how the normalized data for the manganese exposed East Liverpool residents compare to the normalized data for the unexposed Mount Vernon, Ohio residents. The central importance of such a comparison was clearly recognized by Dr. Bowler in her 2012 paper addressing the assessment of the same set of normalized data for Marietta, Ohio residents: "The purpose of this study was to compare the prevalence of medical and mental health outcomes and symptoms among participants from two Ohio towns, with and without industrial Mn-Air emissions." It is also clearly and explicitly recognized by EPA in its description of the Ohio community manganese studies that appears on EPA's website:

In August 2009, a manganese health study was conducted by San Francisco State University in Marietta (a community near smelter emitting manganese) and Mount Vernon (a community without a large airborne manganese source), Ohio. The East Liverpool study in November 2011 followed a similar protocol so that data from all three communities could be compared.⁴

If such a comparison showed any statistically significant negative adverse impacts associated with exposure to airborne manganese, MIG presumes that Dr. Bowler would surely have reported it. The fact that she has not is therefore especially telling.

Second, Dr. Bowler has nowhere explained why her 2015 and 2016 East Liverpool papers do not describe how the East Liverpool normalized data compare to standardized performance data for the general population. Once again, the central importance of such a comparison was clearly recognized by Dr. Bowler in her 2012 paper addressing the assessment of the same set of normalized data for Marietta, Ohio residents. The 2012 Bowler paper clearly and explicitly compares the normalized data for motor impact and cognitive testing to standardized data for the general population:

After application of the HRB adjustments for age, sex, ethnicity, and education, the standardized motor efficiency test scores also showed that

² R.M. Bowler et al., Science of the Total Environment 599-600 (2017) 1369-1371.

³ Bowler, R.M., et al. Anxiety affecting parkinsonian outcome and motor efficiency in adults of an Ohio community with environmental airborne manganese exposure. Int J Hyg Environ Health. 2012; 215:393-405 (hereafter "Bowler et al., 2012").

⁴ See https://www.epa.gov/healthresearch/studying-manganese-exposure-eastern-ohio (emphasis added).

the two study groups performed similarly (Table 3); *the group means and standard deviations were within the average range of the normative data.*⁵

Age-adjusted Similarities test scores from the WAIS-III were compared between participants from both towns with a between-groups ANOVA, controlling for education level, sex, and use of psychiatric health medications. No significant difference was found (p = 0.915) between means scores of those in the exposed group (10.8 ± 3.1) and those in the comparison group (11.2 ± 2.7) . Scores in both towns were very close to (although slightly higher than) those found in the general population (scaled score = 10).

As Dr. Bowler acknowledged when she first described the Marietta and Mount Vernon, Ohio test results in 2010, the "results of this epidemiologic study using random sampling, did not support findings of clear-cut adverse health effects from Mn in air and blood in the town of Marietta . . . <u>Overall test results are within the average range of the general population.</u>"

Third, although the 2015 and 2016 papers reporting results from East Liverpool, Ohio do not explicitly compare the normalized data to standardized data for the general population, both papers report comparisons between Marietta, Ohio residents and East Liverpool residents that imply that the East Liverpool normalized data and the Marietta normalized data are very similar in nature. In the case of neuropsychological cognitive test results, for example, the Bowler et al., 2015 paper reports:

No significant differences by town appeared for any of the neuropsychological test variables using independent sample t-tests. Using a conservative cutoff of two standard deviations below the normative mean, as used in clinical evaluations (Bowler and Lezak, 2015), in the feedback letters to participants, only one Marietta participant had scores "of concern" on tests of attention (none in East Liverpool). All participants scored "within normal" on delayed visual memory. Delayed verbal memory was indicated as "of concern" for three participants from East Liverpool but none from Marietta. Cognitive flexibility was "of

⁵ Bowler et al., 2012 (emphasis added).

⁶ *Id.* (emphasis added).

⁷ See "Health Study of Manganese Exposure of Adults in Marietta & Mt. Vernon, Ohio: Preliminary Results," Rosemarie M. Bowler (June 24, 2010), Slide 54 (emphasis in original and added) (available at https://www.epa.gov/healthresearch/studying-manganese-exposure-eastern-ohio.) Consistent with her initial observations about the study, Ms. Bowler's 2012 paper concludes, "The comparison of two Ohio towns for potential exposure to and health effects of airborne Mn found that MnB, questionnaire, neurological assessment and neuropsychological tests results did not differ between towns." Bowler et al., 2012 (emphasis added).

concern" for one Marietta and two East Liverpool participants.⁸ (Emphasis added.)

Similarly, in the case of neuropsychological motor impacts, Dr. Bowler initially reported in July 2013 that "[m]ost of the participants' test scores in all three towns were within the normal range (between 25th and 75th percentile) with the exception of the following in East Liverpool: divided memory, visual memory, motor speed and strength." The Bowler et al., 2016 paper later reports: "In all, the findings of both the motor and tremor results in terms of clinical impairment *are in the mild range in both towns*, but slightly greater in East Liverpool." (Emphasis added.) (Note: Dr. Bowler nowhere explains how motor impact test results for Marietta residents that were reported in 2012 to fall within "the average range of the general population" [see above] somehow shift to "mild" impairment in 2016. The test results for the Marietta residents that are "normal" cannot also be "impaired" (even mildly).)

Knowing precisely how the normalized data for Marietta, East Liverpool, and Mount Vernon, Ohio residents ultimately compare to the standardized norms for the neuropsychological tests used in the research is essential to ensure proper interpretation of the results of the research conducted by Dr. Bowler and her research team. If all or most of the normalized data fall "within the average range of the general population" (as Dr. Bowler explicitly reported to be the case for the Marietta and Mount Vernon normalized data), Dr. Bowler and her team have not uncovered any "real" evidence of an "adverse" effect. Normal performance is normal performance within the appropriate range. It is only adverse (and then only potentially so) when it falls outside the normal range. Accordingly, if all or most of the normalized data fit within the average range for the general population, as appears likely for the reasons explained above, the purported associations between modeled exposures to manganese in air and test performance in Marietta and East Liverpool, Ohio residents are, at best, of academic interest only. Such associations clearly do not equate to an imminent and substantial endangerment to either Marietta or East Liverpool, Ohio residents.

* * * * *

For the reasons noted above and in MIG's earlier comments, the Court before which the S.H. Bell matter rests lacks jurisdiction to enter the Consent Decree imposed on S.H. Bell by the federal government because there is no colorable evidence of an "imminent and substantial endangerment" to the residents of East Liverpool, Ohio. MIG respectfully requests, once again, that DOJ address in detail the substantive jurisdictional arguments

⁸ Bowler, R.M, et al. (2015). Environmental exposure to manganese in air: Associations with cognitive functions. Neurotoxicology, 49 (139-148) (emphasis added).

⁹ See "Preliminary Results: An Epidemiologic Health Study of Manganese Exposure in Adult Residents of East Liverpool, Ohio, Rosemarie M. Bowler (July 11, 2013, Slide 25 (available at https://www.epa.gov/healthresearch/studying-manganese-exposure-eastern-ohio.)

Bowler, R.M., et al. (2016). Environmental exposure to manganese in air: Associations with tremor and motor function. Science of the Total Environment, 541m 646-654.

raised previously by MIG in its comments, as supplemented by this new information, for the benefit of the Court's on-going deliberations.

Finally, MIG notes that DOJ issued a notice in the *Federal Register* on June 28, 2017 pursuant to Executive Order 13,777 that "seeks suggestions from the public for specific regulatory actions taken by the Department that should be repealed, replaced, or modified, consistent with applicable law." For the reasons noted above and in MIG's earlier comments, the action against S.H. Bell is a regulatory action undertaken by DOJ that should be fully repealed. Accordingly, MIG is also sending this comment and its previous comments to Docket No. OLP 164, as specified in the aforementioned *Federal Register* notice.

¹¹ 82 Fed. Reg. 29,248 (June 28, 2017).

Case: 4:17-cv-00131-BYP Doc #: 8 Filed: 07/07/17 1 of 1. PageID #: 164

PEARSON, J.

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO EASTERN DIVISION

UNITED STATES OF AMERICA,)	
Plaintiff,)	CASE NO. 4:17CV0131
V.)	JUDGE BENITA Y. PEARSON
S.H. BELL COMPANY,)	
Defendant.)	ORDER

The United States of America's Motion for Entry of Consent Decree (ECF No. 6) is pending before the Court.

The Court has received a Second Submission of the Manganese Interest Group (MIG) regarding United States' Memorandum in Support of Motion for Entry of Consent Decree, dated June 30, 2017 ("Second Submission").

On or before July 21, 2017, the United States shall consider and file with the Court the Second Submission along with the United States' response to this supplemental public comment.

IT IS SO ORDERED.

July 7, 2017/s/ Benita Y. PearsonDateBenita Y. PearsonUnited States District Judge

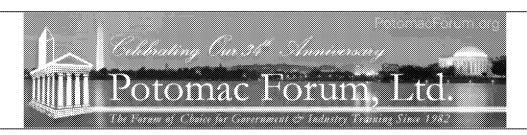
From: Workforce Requirements EO & Efficient Organization Workshop [WorkforceEO@PotomacForumWorkshop.org]

Sent: 6/26/2017 4:33:06 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: [SPAM] This Wednesday - President's EO & Building an Efficient Organization



Improving Agency
Workforce Effectiveness
- Workforce Requirements
and
the President's Executive
Order 13781
Training Workshop
June 28, 2017

Confirmed Speakers
Keynote: Terry Gerton
President & CEO
National Academy of
Public Administration
(NAPA)

---Bob Co

Bob Corsi
Secretary of Board of
Directors
Senior Executives
Association (SEA)
Former Assistant Deputy
Chief of Staff for
Manpower, Personnel and
Services
Headquarters, U.S. Air

Force

Rebecca Ayers
Performance Management
Solutions, OPM

on mr x

Tom Gilbert
Assistant Director of
Strategic Issues, GAO

Improving Performance - Workshop For All Executives, Managers and Staff -

Please Review and Forward to
Your Government Executives,
Managers and Staff
Who Play a Part in Improving their
Workforce Effectiveness and
Organization Meeting the Workforce
Requirements of the President's
Executive Order

Potomac Forum Training Workshop

The President's Executive Order:
How to Meet the Workforce
Requirements of the
President's Executive Order 13781
Training Workshop

What Federal Executives, Managers, and Supervisors Need to Know to Support the Goals of the Executive Order for Reforming the Federal Government and Reducing the Federal Civilian Workforce

Date: Thursday, June 28, 2017

Sponsored by:

Deb Tomchek
Former Director of Human
Resources (HR)
DOJ and DOC

a so oo

Jim Read
Director, Policy and
Evaluation
Merit Systems Protection
Board

Jeffrey Neal Senior Vice President, ICF Former CHCO at DLA and DHS

oo 100 100

Dr. Fred Soto
Supervisory Manager for
Employee Engagement,
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Office of Energy Efficiency
and Renewable Energy
Department of Energy

Kimberly Steide
Program Manager for
Human Capital Planning,

HRSTAT, and Metrics Department of the Treasury

Dianne Hawkins
Program Manager,
Personnel Demonstration
Project
U.S. Army Research

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Marcus Brownrigg
Strategic Partnership and
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Lou Kerestesy Founder & CEO

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Location of Workshop: Willard InterContinental Hotel Washington, D.C.

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Who Should Attend:

- Federal supervisors and managers
- Federal HR practitioners and anyone responsible for implementing agency restructuring plans
- · Inspector Generals and Staff
- Federal employees or members of employee affinity groups
- Communications practitioners responsible for leading change management and internal communications campaigns

GovInnovators

Mika Cross Federal Workplace Expert

From: NAPA Management Matters, June 21, 2017

How to Meet the Workforce Requirements of the President's Executive Order 13781 Training Workshop

The president issued an executive order (EO) on March 13, 2017 which requires agencies to plan and implement long-term workforce reductions and incorporate the plan as a government-wide workforce priority into their Agency Strategic Plan and/or Human Capital Operating Plan

This Potomac Forum training workshop for government will provide information for agency executives, managers, and staff to respond to the EO.

Experienced human capital executives and experts will share their insight and experience in developing and implementing long-term and near-term workforce management practices that will help attendees understand how best to improve performance, increase accountability, and reduce costs.

This workshop will provide you with practical, easy-to-implement tools and resources to help you achieve the best results through your agency's efforts to restructure, reshape and eliminate inefficient functions to achieve the goals of EO 13781 while enhancing employee performance to increase mission efficacy and increase retention.

The Keynote Address will be given by Terry Gerton, Academy President and CEO

Overview: In addition to discussing the implementation of the President's EO, 14 experienced workforce executives and experts will share their insight and experience in developing and implementing long-term and near-term workforce management practices that will help attendees understand how best to improve performance, increase accountability, and reduce costs.

This workshop will provide you with practical, easy-to-implement tools and resources to help you achieve the best results through your agency's efforts to restructure, reshape and eliminate inefficient functions to achieve the goals of EO 13781 while enhancing employee performance to increase mission efficacy and increase retention.

Format:

Lecture, guest speakers, and practical exercises.

CEUs Awarded Upon Workshop Completion Press is NOT Invited to Register or Attend

"Send-A-Team" Registration Fees

No Press to Promote Candid Discussion

Registration and Information:

www.potomacforum.org

Call: (703) 683-1613 Info@PotomacForum.org

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ED_002110_00040648-00005

From: Alteri, Sean (EEC) [Sean.Alteri@ky.gov]

Sent: 7/6/2017 2:11:43 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Quarles, Jackie (EEC) [Jackie.Quarles@ky.gov]

Subject: Re: KY Transport Call

Good morning, Mandy.

Thank you for the call yesterday. If you have time available today or tomorrow to discuss the transport call, please let me know. I think it will be beneficial to have our Deputy General Counsel, Jackie Quarles, on the call. Jackie took excellent notes and has been tracking the litigation for the Cabinet.

Again, thanks. I will coordinate and send a meeting request.

Best regards,

Sean

From: Schweitzer, Howard [HSchweitzer@cozen.com]

Sent: 6/30/2017 2:48:26 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: URGENT -- Felman -- WV -- Potential Shutdown Tonight

Hi Mandy,

We are down to the wire in negotiating the AOC. Apparently on Wednesday, Jen Abramson added an additional requirement to the AOC that we had not seen previously. The requirement goes above and beyond that which is required under the DOJ CD or anything we discussed previously. Jen also left for vacation and we are now in a situation where we either need to shut down tonight at midnight or run the plant out of compliance with the regulations. Felman obviously cannot be in a position where it's out of compliance with the regulations. Jen gave our lawyer the name of someone else in the office who is a point of contact for us -- Donna Mastro -- but Jen basically said if we can't sign the AOC as is then she will talk to us on July 10. Can you please help? I am available anytime today PNB my cell, 202.441.5075. Thanks so much!

Howard

Howard A. Schweitzer Cozen O'Connor, PC Managing Partner, Cozen O'Connor Public Strategies, LLC 1200 19th Street, NW, Washington, D.C. 20036

Office: 202.912.4855, Mobile: 202.441.5075 hschweitzer@cozen.com

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From: John McKnight [jmcknight@nmma.org]

Sent: 7/11/2017 3:58:26 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: follow up letter EPA NMMA June 20, 2017 meeting **Attachments:** EPA NMMA June 20, 2017 marine meeting.doc

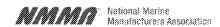
Mandy:

Thank you for meeting with our engine manufacturer members on June 20, 2017.

Attached please find a letter thanking you and the Administrator for this opportunity and memorializing our discussion issues. It is our sincere wish that this document will serve as a basis for continuing our dialogue.

If you have any immediate questions, please do not hesitate to contact me.

John McKnight
Senior Vice-President Government Affairs
National Marine Manufacturers Association
650 Massachusetts Ave Suite 520
Washington DC 20001
202-257-3754
jmcknight@nmma.org



July 7, 2017

Ms. Amanda Gunasekara
Senior Policy Advisor for Air and Radiation
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(Submitted via e-mail: gunasekara.mandy@epa.gov)

Ms. Gunasekara:

Thank you for meeting with the National Marine Manufacturers Association's (NMMA) recreational marine engine manufacturers on June 20, 2017. Also please pass along my sincere thanks to Administrator Pruitt for stopping by to say hello. The time you spent to listen to our engine manufacturers concerns showed EPA's willingness to work with our industry, and our members greatly appreciate this.

As we discussed, the U.S. recreational marine manufacturing industry wants and needs a strong EPA whose emission standards are globally respected and whose certification and enforcement programs are recognized worldwide. The recreational marine industry also needs an EPA that protects our waters and the environment, but does so in a manner that sees industry as its partner, not as its adversary.

Stability in both development and implementation of any new EPA regulations will provide our members businesses with the time they need for planning and investment in new technologies. This will also provide manufacturers with the confidence they need to make capital investments in manufacturing plants, resulting in good paying American jobs.

As we discussed, there are several key issues that will reduce the EPA regulatory administrative burden currently facing our industry. These administrative requirements provide no emission benefit, but rather impose a significant unnecessary cost to our products while at the same time requiring EPA to expend unnecessary resources. The following is a summary of these issues that were also the comments submitted by NMMA to EPA docket. (EPA-HQ-OA-2017-0190, USEPA Air and Radiation (OAR) Executive Order 13777) In addition, there is the issue of the future direction of the renewable fuel standard and an issue regarding structural polyurethane composites.

In-Use Testing - 40 C.F.R. § 1045 Subpart E

Under the current in-use test program, EPA requires manufacturers to test based on the Agency's selection of up to 25% of available engine families. At a minimum four outboards must be tested from each family for a minimum of 50% of the engine's useful life.

NMMA believes that this is a costly and redundant program, with no environmental benefit. In the nineteen years that this program has been required for recreational marine engines, NMMA knows of no EPA reported exceedances of exhaust emissions. In-use testing is redundant because there currently exists requirements for emission dyno testing, full life durability deterioration factor testing, NTE zone testing, and production line testing. EPA needs to eliminate its redundant in-use testing program because it does nothing but incur a significant cost with no benefit.

Confirmatory Testing 40 C.F.R. §1045.235 (c) (1)-(4) and (e)

EPA has the authority to require a manufacturer to provide the Agency an engine that is subjected to emission testing at an independent lab of EPA's choice. This confirmatory test program has existed within EPA regulations for some time, but until the past year it had not been applied to the recreational marine engine sector.

NMMA is concerned that EPA has the authority to hold up certification approvals until this test is completed, thereby delaying production and sales. Additionally, confirmatory testing poses training and staffing issues. Marine engine labs are first-rate facilities with staff uniquely trained to set up and measure emissions specific to our products. We ask that EPA consider eliminating confirmatory testing for marine engines and instead conducting round robin test program. In such a case, NMMA would provide EPA with data demonstrating that our members' in-house recreational marine engine test labs are consistent, follow 40 CFR Part 1060 test methods and operate using stringent QA/QC controls. If confirmatory testing must continue, allow for the issuance of conditional certificates of conformity for engine families subject to a confirmatory test order.

Carryover Certification Applications- 40 C.F.R. Part 1045 Subpart C

EPA's certification requirement that recreational marine engine manufacturers submit a complete certification application every year, regardless of whether or not there are changes to the engine is overly burdensome. In many of these cases, these engines have been sold for ten years or more. Requiring engine manufacturers to complete and submit redundant paperwork, and requiring EPA certification staff to conduct a detailed review of this submittal is a prime example of a government misuse of resources. Eliminating this administrative burden all together, or requiring a more simplified one page form for certifying carry over engine families would be beneficial.

Renewable Fuel Standard

The Renewable Fuel Standard (RFS) and in particular the 2010 waiver allowing for E15 distribution has placed a detrimental burden on our industry. Marine engines are prohibited by Federal law from using E15, but there is no guarantee in the law or regulations that E10 or lower blends will be available.

Gasoline containing more than 10 percent ethanol by volume are incompatible with marine engines and the marine environment. A series of engine evaluations conducted by Mercury Marine and Volvo Penta under direction of the Department of Energy (DOE) National Renewable Energy Laboratory (NREL) concluded that ethanol content in gasoline at 15% by volume will severely damage marine engines and cause them to exceed the EPA emission standards

[PAGE * MERGEFORMAT]

Consumers who use E15 will experience problems like difficult starting, stalling, fuel vapor lock, and eventually complete engine failure. In addition to being a violation of Federal Law, boaters who use of E15 also void marine engine warranties.

NMMA believes that this is also an issue about choice. With more E15 being pumped in the market the availability of E0 has been decimated. Unlike the Obama Administration, the Trump Administration should consider not just product need, but consumer demand for E0, which can range from three to six percent of overall fuel supply. The 2018 RVOs should be finalized at less than 14B gallons for ethanol. Consumer demand for E15 is not present and pumping more E15 in the fuel supply only hurts marine engines and other small engines such as outdoor power equipment. E0 should remain a viable consumer choice, reflecting the market demand of approximately 3%.

E15 Misfueling Mitigation Plan

Recent Harris Polling has indicated that only 5% of consumers know that E15 is prohibited by Federal law in certain engines, and 60% of consumers assume that any gas sold at a retail gas station must be safe and reliable for all applications. The current EPA education requirements—consisting of a small square pump sticker warning—is inadequate and creates a public risk.

EPA must do a better job of educating consumers as to proper fueling. When the U.S. switched from leaded to unleaded fuel—an EPA directed phase-out that spanned 15 years—the public was sufficiently educated on the new fuel. In addition, requirements were put in place to require redesign of the automotive fuel fill to prevent being able to pump leaded fuel into a vehicle that required unleaded. Many stakeholders were involved to ensure that unleaded fuel was adopted for public consumption without issue or reservations. A similar approach needs to be replicated today with E15. EPA should update its E15 Misfueling Mitigation Plan and work with affected product industries to develop a more robust consumer education campaign.

Bio butanol as an alternative to E15

Under the direction and guidance of the U.S. Department of Energy and Argonne National Laboratory, together with participation from manufacturers across the marine industry, the NMMA and the American Boat and Yacht Council (ABYC), have been engaged in a four-year program to evaluate the performance of recreational marine engines and vessels operated on biologically produced butanol fuel.

The results have led to an industry-wide approval for the use of biobutanol fuel blends up to 16.1 percent by volume (Bu16). Biobutanol contains nearly 90% of the energy content of gasoline compared to 67% for ethanol. Both Bu16 and E10 contain the same oxygen by weight, and both neat fuels raise octane when blended into gasoline. Bio butanol is particularly interesting to the marine industry as it is significantly more resistant to phase separation than ethanol. It is also less corrosive to fuel system component materials when compared to ethanol. These positive chemical properties mean that bio butanol can be transported in the existing pipeline distribution infrastructure, minimizing the need for truck and rail transportation, which is required for ethanol. When added to gasoline, bio butanol lowers the Reid Vapor Pressure (RVP) of the finished gasoline blend which results in lower evaporative emissions, allows for a less costly gasoline blend stock, and provides the ability to more easily meet EPA gasoline volatility standards. As a result of the

proactive industry-wide testing and subsequent approval, biobutanol fuel blends are currently available at a limited number of marinas across the country.

Approving bio butanol for on-highway use will further assist in market viability, and allow for a cleaner, less problematic fuel alternative to enter the market.

International Marine Organization (IMO) Tier 3 NOx issue

All recreational vessels greater than 24 meters LLL (75 feet) and below 500 GT that are built after January 1, 2021 and that operate in the IMO Emission Control Area (ECA) 1 and 2 (North America and the Caribbean as well as the Baltic and North Sea including the English Channel) will be required to meet the IMO Tier III NOx engine exhaust emission standard as set out in the MARPOL Convention Regulation 13.

The primary technology available today for meeting the IMO Tier III standard is an engine equipped with Selective Catalyst Reduction (SCR). An SCR system takes up a minimum of 30% of the space required for the engine. There is little or no room in many engine rooms to accommodate these SCR systems. The volume of an SCR system required for marine engines is significantly larger than other engines with similar power outputs in other applications. This is because of the effects of the sulphur in marine fuel.

The EPA has exempted recreational vessels from its Tier IV requirement. We ask that the EPA support the US IMO representative in exempting recreational vessels from international Tier III requirements.

SNAP Boat builder Issue- HFC- 134a Blowing Agent for Structural Polyurethane Foam

Under section 612 of the Clean Air Act (CAA), EPA has the authority to review substitutes for HFC blowing agents within a comparative risk framework. More specifically, section 612 provides that EPA must prohibit the use of a substitute where EPA has determined that there **are other available substitutes** or potentially available substitutes that pose less overall risk to human health and the environment. Thus, EPA's Significant New Alternatives Policy (SNAP) program, which implements section 612, does not provide a static list of alternatives but instead adapts the list as the EPA makes decisions informed by the Agency's overall understanding of the environmental and human health impacts of the substances as well as their current knowledge about available substitutes.

In the final SNAP rule, EPA established various deadlines after which HFC-134a cannot be used, depending on the end-use of the product. EPA did not consider or take final action regarding the use of HFC-134a for use in rigid polyurethane spray foam used for composite structures. However, for rigid polyurethane spray foam that is also used in marine flotation foam, EPA determined that the use of HFC-134a as a blowing agent "unacceptable" as of January 1, 2020. EPA staff decided to consider both processes as the same, and they are not. Unless something is done to prevent this ban, the highly beneficial GHG reducing products made with structural rigid polyurethane spray foam also will be banned on January 1, 2020.

Rigid polyurethane creates a strong durable lightweight product that is used for structural recreational boat components such as stringers, bulkheads, hull and deck stiffeners, beams, fuel tank supports, structural members, long-span stiffeners, corner stiffeners, and hull side-to-bottom strengthening. With boats, this

[PAGE * MERGEFORMAT]

material replaces products that were historically made from wood. In addition to the benefits to the recreational boating industry, the Department of Defense and the United States Navy also apply this technology to military applications under Phase I, II and III SBIR programs. This technology also has recently been adopted for on highway transportation applications. A major U.S. truck trailer company has begun using rigid polyurethane spray foam to build truck trailers that are a third lighter than those built with conventional materials. The benefits of using lightweight structural materials include increased fuel efficiency, performance, and in many cases an increased payload with the added benefits of an extended life cycle.

Research is ongoing to investigate whether alternatives to HFC-134a can be used in this process but at this time no alternative exists.

The overall environmental benefits greatly outweigh the small amount of GHG required to manufacture these products. The improved fuel efficiency directly relates to a long-term significant reduction in downstream GHG emissions. The one-time non-recurring GHG generation is quickly offset as fuel generates about 28 pounds of GHG per gallon. In the last Administration, EPA staff refused to consider evaluating the major difference between recurring and non-recurring pollution even though NMMA explained this concept both in discussion with staff and in our written comments. NMMA was consistently told that because of the Paris Agreement, the Obama Administration ordered EPA to move quickly to institute bans on these GHGs. Since there are such significant benefits in GHG reduction from the use of lighter weight materials for transportation applications, EPA needs to put in place procedures and methods that look at full life cycle before issuing regulations. Otherwise, the Agency is doing a disservice by not allowing for the most environmentally sound products to be utilized.

NMMA urges EPA to create a category in the SNAP rule identifying this process as "Structural Composite Preforming" and exempt this process from SNAP.

Thank you again for taking the time to meet with our group of engine manufacturers, and for your attention to the issues outlined in this letter. Please let me know if you have any questions or if I can provide you with more information. I can be reached at imcknight@nmma.org or 202-257-3754.

Sincerely,

John McKnight

Senior Vice President, Government Affairs National Marine Manufacturers Association

John M. Hinght

From: Stephen Aaron [saaron@mercuryllc.com]

Sent: 6/30/2017 2:35:51 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: Re: Follow Up

Thank you!

Mercury.

Stephen Aaron Senior Vice President 300 Tingey Street SE | Suite 202 Washington, DC | 20003 www.mercurylic.com

On Jun 30, 2017, at 10:34 AM, Gunasekara, Mandy < Gunasekara. Mandy@epa.gov > wrote:

Yes – I'm on a call. I'll either call you before 11 (if this wraps up early) or at noon.

From: Stephen Aaron [mailto:saaron@mercuryllc.com]

Sent: Friday, June 30, 2017 10:30 AM

To: Gunasekara, Mandy <<u>Gunasekara.Mandy@epa.gov</u>> **Cc:** Dominguez, Alexander <<u>dominguez.alexander@epa.gov</u>>

Subject: Re: Follow Up

Mandy, any Janice you've got 5 minutes for me today?

Stephen Aaron
Senior Vice President
300 Tingey Street SE | Suite 202
Washington, DC | 20003
www.mercurylic.com

On Jun 26, 2017, at 1:46 PM, Gunasekara, Mandy < <u>Gunasekara Mandy@epa.gov</u>> wrote:

Hey Stephen, happy to follow-up. Alex, can you find 15-20 minutes on my calendar for a call with Stephen?

From: Stephen Aaron [mailto:saaron@mercuryllc.com]

Sent: Wednesday, June 21, 2017 11:52 AM

To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>

Subject: Follow Up

Mandy,

Just wanted to follow up with you, Cabot received their letter and we are very appreciative of yalls efforts and attention.

I did want to check in with you and see if there was any clarity on when relief may be granted and for how long. Also if y'all have any idea what standards were going to be for others coming into compliance.

Hope you're well and talk soon.

Stephen

Stephen Aaron Senior Vice President 300 Tingey Street SE | Suite 202 Washington, DC | 20003 www.mercurylic.com

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From: Segal, Scott [scott.segal@bracewell.com]

Sent: 6/27/2017 1:48:41 AM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: New Harvard PM 2.5 Study

Super - talk to you then.

Sent from my iPhone

SCOTT SEGAL

Partner

scott.segal@policyres.com

T: +1.202.828.5845 | F: +1.800.404.3970

BRACEWELL LLP

2001 M Street NW, Suite 900 | Washington, D.C. | 20036-3310 policyres.com | profile | download v-card

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On Jun 26, 2017, at 9:48 PM, Gunasekara, Mandy < Gunasekara. Mandy@epa.gov > wrote:

Ok- let's shoot for after. I'll be interested to see what all NPR asks. Good luck!

Sent from my iPhone

On Jun 26, 2017, at 9:47 PM, Segal, Scott < scott.segal@bracewell.com> wrote:

I am being interviewed by NPR about it tomorrow at 9:30! Could talk at 9:15 or 9:45, I bet.

Sent from my iPad

SCOTT SEGAL

Partner

scott.segal@policyres.com

T: +1.202.828.5845 | F: +1.800.404.3970

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On Jun 26, 2017, at 9:40 PM, Gunasekara, Mandy < <u>Gunasekara.Mandy@epa.gov</u>> wrote:

Yes- I was just forwarded a copy from our press folks. I'll plan to reach out tomorrow to discuss. Would 9:30 work on your end?

Sent from my iPhone

On Jun 26, 2017, at 9:17 PM, Segal, Scott < scott.segal@bracewell.com> wrote:

Mandy - have you seen this? Happy to discuss at your convenience, ss/

Sent from my iPad

SCOTT SEGAL

Partner

scott.segal@policyres.com<mailto:scott.segal@policyre
s.com>

T: +1.202.828.5845 | F: +1.800.404.3970

POLICY RESOLUTION GROUP | BRACEWELL LLP 2001 M Street NW, Suite 900 | Washington, D.C. | 20036-3310

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[cid:image4f9f55.JPG@f3656477.499b9f80]http://www.bgllp.com|
w.bgllp.com>

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Begin forwarded message:

From: "Segal, Scott"

<scott.segal@bracewell.com<mailto:scott.segal@bracewell.com>>

This new Harvard (NEJM) study is embargoed until 5pm on Weds, but could get splashy tomorrow. Purports to show 2.5 benefits below NAAQS level. Will be used to criticize CPP repeal, of course. And Paris. Big sample set.

Talkers might include the 88% drop in PM AQI days since 2001.

Or energy poverty concerns if zero PM tolerance were adopted. Including health tradeoffs based on resource diversion and unemployment.

The study itself doesn't seem to control enough factors, like the fact the poverty correlates with indoor air pollution more so than outdoor, making the ambient conclusions specious.

I predict you folks will need to address this in the next day or so!

<image4f9f55.JPG>

<air pollution.pdf>

<air pollution editorial.pdf>

 From:
 Kelly Poole [kpoole@ecos.org]

 Sent:
 6/26/2017 3:50:48 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: Re: Invitation to Speak: ABA SEER 2017 Fall Conference

Hi Mandy,

No problem! Thanks for looking into this. I'll be in touch at a later date regarding ECOS related events.

I hope you have a good week.

Best,

Kelly Poole, JD
Project Manager
Environmental Council of the States
50 F Street NW, Suite 350
Washington, DC 20001
202-266-4939
kpoole@ecos.org

On Mon, Jun 26, 2017 at 9:29 AM, Gunasekara, Mandy < Gunasekara. Mandy @epa.gov > wrote:

Hi Kelly,

I apologize for the delay in response, but I was trying to shuffle around some scheduling conflicts to make this work. Unfortunately, I will not be available to participate for this event. I appreciate the invitation and would be happy to help in other ECOS and ECOS affiliated events. Please convey my apologies to the group organizers as well.

Best,

Mandy

From: Kelly Poole [mailto:kpoole@ecos.org]
Sent: Wednesday, June 21, 2017 2:48 PM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov > Cc: Dominguez, Alexander < dominguez.alexander@epa.gov > Subject: Re: Invitation to Speak: ABA SEER 2017 Fall Conference

Hi Mandy,

I hope your week is going well. I wanted to check in on the below speaking request. We'd love to have you but no pressure of course! And just so it is more clear - I think I kind of buried the info in the first email - the panel is the afternoon of Friday, October 20th in Baltimore, MD.
Let me know what you think or if you have any questions.
Best,
Kelly Poole, JD
Project Manager
Environmental Council of the States
50 F Street NW, Suite 350
Washington, DC 20001
202-266-4939
kpoole@ecos.org
On Wed, Jun 14, 2017 at 10:38 PM, Kelly Poole < kpoole@ecos.org > wrote:
Hi Mandy,
On behalf of the American Bar Association, I would like to invite you to participate in the ABA Section of Environment, Energy, and Resources 2017 Fall Conference as a speaker during a panel discussion regarding Clean Air Act priorities under the current administration.
Conference Details:
Panel title: The Clean Air Act under the Trump Administration
The conference will be held at the Baltimore Marriott Waterfront Hotel.
This panel is scheduled for the afternoon of Friday, October 20th.
• Speakers must submit a substantive paper for national CLE compliance. These papers are usually 5 - 10 pages long. A previously published paper, a paper put together by your organization or staff, or a paper jointly witten by the panel speakers

may fulfill this requirement. There will be a best paper award given for original work at the conference, and the winning paper will be published.

- There will be two conference calls that will be scheduled by the moderator
- Panel Participants:
 - Moderator: Fatima Maria Ahmad, C2ES Confirmed Speakers:
 - o Emily Sanford Fisher, EEI Confirmed
 - o John Walke NRDC Confirmed

I look forward to hearing from you, and please let me know if you have any questions.

Best,

Kelly Poole, JD

Project Manager

Environmental Council of the States

50 F Street NW, Suite 350

Washington, DC 20001

202-266-4939

kpoole@ecos.org

From: Gunasekara, Surya [Surya@mail.house.gov]

Sent: 7/4/2017 10:06:10 AM

To: Dabbar, John M [John.M.Dabbar@conocophillips.com]

CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: [EXTERNAL] Reservation at BLT Prime by David Burke for 2

No worries, looking forward to it. Happy 4th of July!

Surya G. Gunasekara 202-288-8657

On Jul 3, 2017, at 9:24 PM, Dabbar, John M < John.M.Dabbar@conocophillips.com > wrote:

Turns out Susan can't make it Thursday so I will be there solo.

[EXTERNAL] Reservation at BLT Prime by David Burke for 2

Scheduled: Thursday, Jul 6, 2017 from 12:15 to 13:15 Location: 1100 Pennsylvania Ave NW, Washington, DC 20004

Invitees: gunasekara.mandy@epa.gov, Gunasekara, Surya

John Dabbar VP Federal and State Government Affairs ConocoPhillips (832)212-3964 From: Horton, Melissa H. [MHIGGINS@southernco.com]

Sent: 6/28/2017 8:25:56 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: Kemper Filing

```
You're very welcome.
```

From: Sunanon, Claston [CSunanon@ouc.com]

7/10/2017 8:18:42 PM Sent:

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: Speaker Request- Utility Users Group meeting in Orlando

Mandy,

No problem. Will do.

Sent from my iPhone

On Jul 10, 2017, at 12:47 PM, Gunasekara, Mandy < Gunasekara. Mandy@epa.gov > wrote:

Hi Claston,

I apologize for the delay, but I am not going to be able to make the event. Please keep me informed of future opportunities and I look forward to continuing to work together.

Best, Mandy

From: Sunanon, Claston [mailto:CSunanon@ouc.com]

Sent: Monday, July 10, 2017 11:39 AM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Subject: Re: Speaker Request- Utility Users Group meeting in Orlando

Mandy,

I am following up with you on this. Please let me know if you cannot make it. Thanks.

Sent from my iPhone

On Jun 30, 2017, at 8:31 AM, Sunanon, Claston < CSunanon@ouc.com > wrote:

Mandy,

Good morning. I am following up to see if you are able to speak at this conference. Thanks.

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Thursday, June 15, 2017 1:02 PM

To: Sunanon, Claston < CSunanon@ouc.com>

Subject: RE: Speaker Request- Utility Users Group meeting in Orlando

Hi Claston,

Thank you for the invite. Let me check cross check this with my scheduling team and get back.

Best,

Mandy

From: Sunanon, Claston [mailto:CSunanon@ouc.com]

Sent: Tuesday, June 13, 2017 11:05 AM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Subject: Speaker Request- Utility Users Group meeting in Orlando

Mandy,

Good morning. My name is Claston Sunanon with Orlando Utilities Commission (OUC) and one of the host for the Eastern Fuel Buyers Conference where you spoke earlier this year. You were very well received and nothing but positive comments on your presentation. My company OUC is hosting a utility Users Group meeting focusing on power plants and the website link is: www.utilityusersgroup.com. We are requesting to see if you can be a speaker at the conference and the conference will pay for the hotel accommodations. Thank you for your consideration.

From: NHolden@babcockpower.com [mailto:NHolden@babcockpower.com] Sent: Monday, June 12, 2017 4:24 PM To: NHolden@babcockpower.com;

Gillingham, John W.

<WGillingham@ouc.com>

 $\textbf{Cc:} \ \underline{ABoris@babcockpower.com};$

<u>CElliott@babcockpower.com</u>;

dcoates@babcockpower.com;

DZahn@babcockpower.com;

jsweetland@babcockpower.com;

JPasquariello@babcockpower.com;

JLazenby@babcockpower.com;

JNelligan@babcockpower.com;

KOLaughlin@babcockpower.com;

KSchroeck@babcockpower.com;

MCoyle@babcockpower.com;

RHellebuyck@babcockpower.com;
RPierson@babcockpower.com;
SPuski@babcockpower.com;
TWilson@babcockpower.com;
tgrant@babcockpower.com;
WDoherty@babcockpower.com
Subject: Re: Fw: Can you send me an update on who has registered.
[EXTERNAL]

We would like to invite you to attend the 2017 Utility Users Group to be held in Orlando Florida. This years event will focus on many of the key topics that are driving our business.

These topics include:

- Boiler NG Conversion and Operations Panel Discussion
- Building your Specification
 Project Lessons Learned
- Post retrofit operations considerations
- Boiler Panel Discussion:Pressure Parts
- BurnersMills
- Maintenance
- Environmental Panel Discussion
 - CCR
- Dry Bottom Ash Conversion
 Direct Injection Systems
- Reclaiming Coal Ash for Beneficial Use
- Air Quality Regulations
- ELG Compliance
- Steam Turbine and Boiler Upgrades

Please register before June 26th to get the special registration and room rates. Please go to www.utilityusersgroup.com to register.

<image001.gif>

<image002.gif>

Neal Holden

Regional Vice President Babcock Power Sales Inc. M: 704-430-9488

NHolden@babcockpower.com http://www.babcockpower.com

****** Think

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http://www.babcockpower.com

From: Rupert Darwall Personal Email / Ex. 6

Sent: 7/11/2017 3:45:29 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: [SPAM] This afternoon

Mandy,

Heading to Alexandria to see my agent. Free in the afternoon other than planning to see Mario but not fixed a time yet.

Rupert

PS off email for approx 45 mins

Sent from my BlackBerry — the most secure mobile device

From: Stephen Aaron [saaron@mercuryllc.com]

Sent: 6/30/2017 2:30:26 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: Re: Follow Up

Mandy, any Janice you've got 5 minutes for me today?



Stephen Aaron Senior Vice President 300 Tingey Street SE | Suite 202 Washington, DC | 20003 www.mercurylic.com

On Jun 26, 2017, at 1:46 PM, Gunasekara, Mandy < Gunasekara. Mandy@epa.gov> wrote:

Hey Stephen, happy to follow-up. Alex, can you find 15-20 minutes on my calendar for a call with Stephen?

From: Stephen Aaron [mailto:saaron@mercuryllc.com]

Sent: Wednesday, June 21, 2017 11:52 AM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Subject: Follow Up

Mandy,

Just wanted to follow up with you, Cabot received their letter and we are very appreciative of yalls efforts and attention.

I did want to check in with you and see if there was any clarity on when relief may be granted and for how long. Also if y'all have any idea what standards were going to be for others coming into compliance.

Hope you're well and talk soon.

Stephen

Stephen Aaron
Senior Vice President
300 Tingey Street SE | Suite 202
Washington, DC | 20003
www.mercurylic.com

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From: John McKnight [jmcknight@nmma.org]

Sent: 7/6/2017 1:38:20 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: example of the composite process that EPA will ban in 2020

Flag: Flag for follow up

Mandy:

Following up from your meeting with the National Marine Manufacturers Association engine manufacturers on June 20 below is a link to an article regarding the composites process we discussed. Although this example is truck bodies, boat builders use this same process to replace wood for the ribs and bulkheads used in boats.

Unless EPA helps us, as of January 2020 due to the SNAP regulation which was the Obama implementation of the Paris Accord all the beneficial products made with this process go away.

Also on Monday you will get a letter that we are drafting which summarizes all the topics we discussed at our meeting. I hope we have an opportunity to discuss these and other issues soon.

Thanks

John McKnight
Senior Vice-President Government Affairs
National Marine Manufacturers Association
650 Massachusetts Ave Suite 520
Washington DC 20001
202-257-3754
jmcknight@nmma.org

From: Scott Lewit [mailto:slewit@aol.com]
Sent: Thursday, July 06, 2017 8:13 AM
To: John McKnight <jmcknight@nmma.org>

Subject: new article

Hi John

Heading out to see Jeff at BRP on the Navy project.

This is in the July/Aug issue of Composite Manufacturing.

http://compositesmanufacturingmagazine.com/2017/07/wabash-and-structural-composites-make-first-all-composite-trailer/

Thank you Scott

Scott M. Lewit Structural Composites, Inc Compsys, Inc 7705 Technology Drive W. Melbourne, FL 32904 321-252-4566 (Direct Line) 321-951-9464 (SC) 321-255-0399 ext206 (Compsys) 321-728-9071 (f) slewit@aol.com www.structuralcomposites.com www.preforms.com





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From: Kennedy, Brian (Flake) [Brian_Kennedy@flake.senate.gov]

Sent: 6/27/2017 8:34:07 PM

To: Wagner, Kenneth [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=048236ab99bc4d5ea16c139b1b67719c-Wagner, Ken]; Palich, Christian

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]

CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Bennett, Tate

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, EI]; Fragoso, Michael

(Judiciary-Rep) [Michael_Fragoso@judiciary-rep.senate.gov]; Towles, Sarah (Flake)

[Sarah_Towles@flake.senate.gov]; Morse, Chandler (Flake) [Chandler_Morse@flake.senate.gov]

Subject: RE: 9th Circuit Decision Early Implementation of Contingency Measures for Ozone and Carbon Monoxide (CO)

Nonattainment Areas

Any update on this language and whether EPA has preferred language? We would like to move quickly on this.

Brian

On Jun 13, 2017, at 1:51 PM, Kennedy, Brian (Flake) < Brian Kennedy@flake.senate.gov wrote:

Hi Ken,

I wanted to put this on your radar too.

Brian

From: Kennedy, Brian (Flake)

Sent: Monday, June 12, 2017 2:27 PM

To: 'Gunasekara.Mandy@epa.gov' < Gunasekara.Mandy@epa.gov>

Subject: FW: 9th Circuit Decision Early Implementation of Contingency Measures for Ozone and Carbon

Monoxide (CO) Nonattainment Areas

Hi Mandy,

Wanted to put this on your radar.

Brian Kennedy 202 224 1221

From: Kennedy, Brian (Flake)

Sent: Thursday, June 8, 2017 11:05 AM **To:** 'Bennett, Tate' <Bennett, Tate@epa.gov>

Cc: Palich, Christian < palich.christian@epa.gov>; Fragoso, Michael (Judiciary-Rep)

<Michael Fragoso@judiciary-rep.senate.gov>

Subject: 9th Circuit Decision Early Implementation of Contingency Measures for Ozone and Carbon

Monoxide (CO) Nonattainment Areas

Tate and Christian,

As you may know, for over 20 years, EPA has allowed state and local governments to implement contingency measures early, that is, before such measures are required or "triggered" as a matter of law. Under long-standing policy implemented by the Clinton, Bush and Obama Administrations, EPA has considered it "illogical to penalize nonattainment areas that are taking extra steps to ensure attainment of the NAAQS by having them adopt additional contingency measures now." Early Implementation of Contingency Measures for Ozone and Carbon Monoxide (CO) Nonattainment Areas, U.S. EPA, Aug. 13, 1993.

A 2016 decision by the 9th Circuit, however, has thrown this long-standing policy into question. In Bahr v. EPA, No. 14-72327 (9th Cir. 2016), a 2-to-1 majority opinion held that CAA §172(c)(9) prevented EPA from approving contingency measures in a SIP if these measures were undertaken prior to an area failing to make reasonable further progress or reach attainment of a NAAQS.

We wanted to work with you on a potential legislative solution to this issue.

Do you guys have any suggestions?

Brian Kennedy Legislative Assistant Office of Senator Jeff Flake

From: John McKnight [jmcknight@nmma.org]

Sent: 7/11/2017 2:46:51 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: follow up letter EPA NMMA June 20, 2017 meeting **Attachments:** EPA NMMA June 20, 2017 marine meeting.doc

Amanda:

Thank you for meeting with our engine manufacturer members on June 20, 2017.

Attached please find a letter thanking you and the Administrator for this opportunity and memorializing our discussion issues. It is our sincere wish that this document will serve as a basis for continuing our dialogue.

If you have any immediate questions, please do not hesitate to contact me.

John McKnight
Senior Vice-President Government Affairs
National Marine Manufacturers Association
650 Massachusetts Ave Suite 520
Washington DC 20001
202-257-3754
jmcknight@nmma.org

From: joanna.foust@daimler.com [joanna.foust@daimler.com]

Sent: 6/26/2017 9:10:38 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Dominguez, Alexander [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

Subject: RE: Daimler Meeting Request

Thanks so much Mandy. Really appreciate it. Looking forward to catching up.

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, June 26, 2017 4:58 PM

To: Foust, Joanna (172) < joanna.foust@daimler.com>

Cc: Dominguez, Alexander <dominguez.alexander@epa.gov>

Subject: Re: Daimler Meeting Request

Hi Joanna,

I'd be happy to meet and will invite two of my colleagues, Brittany Bolen and Samantha Dravis to join.

Alex, can you coordinate a time we can all meet?

Sorry to hear the plant visit is not going to work out. I look forward to catching up soon.

Best,

Mandy

Sent from my iPhone

On Jun 26, 2017, at 4:12 PM, "joanna.foust@daimler.com" < joanna.foust@daimler.com wrote:

Hi Mandy-

Hope all is well with you. We were slated to host your boss in a week or so over at our Mercedes-Benz USI plant in Alabama, but unfortunately the scheduling kind of unraveled and it's a no-go. Hopefully we find another date down the road!

In the meantime, I was wondering if you might have some time to meet with me and my colleague, Bill Craven who handles regulatory affairs? Bill is really the point person here in DC for Mercedes-Benz on all things GHG, Mid-Term Review-related. Was wondering if you have some time over the next week or so for a meeting? I know Bill would like to meet you and give you an update on our views related to GHG/CAFE issues.

Thanks Mandy for your consideration.

Joanna Foust General Manager--Federal Affairs **Daimler North America Corp.** 1717 Pennsylvania Avenue, NW Suite 825 Washington, DC 20006 ph: 202-649-4506 If you are not the addressee, please inform us immediately that you have received this e-mail by mistake, and delete it. We thank you for your support.

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From: Dave Flannery [Dave.Flannery@Steptoe-Johnson.com]

Sent: 6/26/2017 3:25:19 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Midwest Ozone Group

Attachments: Assessment of International Transport and Improved Ozone Air Quality 6.22.17.docx; Assessment of International

Transport and Improved Ozone Air Quality 6.22.17.ppt

Mandy

Given the Administrator's letter of June 7, 2017 extending the deadline for making nonattainment designations related to the 2015 ozone NAAQS and calling for an assessment of international transport and other considerations related to the 2015 ozone NAAQS, I am providing a link and an attachment involving both a white paper and PowerPoint presentation prepared by the Midwest Ozone Group which assess the significance of international transport impact in 2017 and provide an overall assessment of improvements in ozone air quality:

White paper:

http://www.midwestozonegroup.com/files/Assessment_of_International_Transport_and_Improved_Ozone_Air_Quality_62.22.17.docx

PowerPoint:

http://www.midwestozonegroup.com/files/Assessment of International Transport and Improved Ozone Air Quality 6.22.17.ppt

We would be pleased to comment on these in a meeting with the Administrator. In the meantime, if you have any questions about these documents, please contact me.

Dave Flannery

Steptoe & Johnson PLLC P.O. Box 1588, Charleston, WV 25326-1588 Overnight Chase Tower, 8th Floor 707 Virginia Street, East, Charleston, WV 25301 O: 304-353-8171 F: 304-353-8183 C: 304-539-1458

dave.flannery@steptoe-johnson.com www.steptoe-johnson.com

From: Dave Flannery

Sent: Friday, June 02, 2017 2:54 PM

To: 'Mandy Gunasekara (Gunasekara.mandy@epa.gov)'

Subject: Midwest Ozone Group

Mandy

Thanks for taking some time with me on May 31, 2017, to discuss the Midwest Ozone Group (MOG) and its interest in meeting with Administrator Pruitt to discuss both its Petition to Reconsider the CSAPR Update filed on December 23, 2016, and its Regulatory Reform comments filed on May 15, 2017. These documents (both of which are attached) describe MOG's concerns about the technical and legal issues associated with the modeling and development of the CSAPR Update and the general implementation of the ozone NAAQS. Among these concerns are the failure to have considered existing on-the-books control

programs, the failure to have accounted for the effects of international emissions and the imposition of control requirements solely on electric generating units, resulting in prohibited "over control" of sources in many states.

MOG members and participants operate some 80,000 MW of coal-fired and coal-refuse fired generation in more than ten states. The members of and participants in the MOG include: American Coalition for Clean Coal Electricity, American Electric Power, American Forest & Paper Association, Ameren, Alcoa, ARIPPA, Associated Electric Cooperative, Citizens Energy Group, Council of Industrial Boiler Owners, Duke Energy, East Kentucky Power Cooperative, FirstEnergy, Indiana Energy Association, Indiana Utility Group, LGE / KU, Ohio Utility Group, Olympus Power, and the Springfield (IL) City Water, Light & Power.

Dates that are available for a meeting with the Administrator include:

June 12, 13, 14, 15, 19, and 20. July 11, 12, 13, 14, 24, 25, 26, and 27.

If need anything more from us related to the scheduling of this meeting, please let me know.

Dave Flannery

Steptoe & Johnson PLLC P.O. Box 1588, Charleston, WV 25326-1588 Overnight Chase Tower, 17th Floor 707 Virginia Street, East, Charleston, WV 25301 O: 304-353-8171 F: 304-353-8183 C: 304-539-1458

dave.flannery@steptoe-johnson.com www.steptoe-johnson.com



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Assessment of International Transport and Improved Ozone Air Quality

Prepared by the

Midwest Ozone Group

June 22, 2017

The Clean Air Act requires EPA to establish primary National Ambient Air Quality Standards at levels that "allowing an adequate margin of safety, are requisite to protect the public health." In addition, the Act recognizes that the States have primary authority for designing and administering the plans that bring areas into attainment, and maintain those standards. And in certain areas States are authorized by the Act to demonstrate that those plans would be adequate to attain and maintain those standards if the standards would be achieved "but for" emissions emanating from outside the U.S.

On June 6, 2017, the EPA Administrator extended the deadline for promulgating designations related to the 2015 ozone NAAQS and in doing so stated that states have made "tremendous progress and significant investment cleaning up the air." The same letter also identified international transport as one of the complex issues that it would be reviewing during the extension period.

International Transport

To illustrate the significance of the role of international transport on ozone air quality in the U.S., the Midwest Ozone Group has reviewed EPA's modeling data in support of the Cross State Air Pollution Rule (CSAPR) projections for 2017 to identify boundary conditions, initial conditions, Canadian, and Mexican emissions from 2011, all of which can be fairly viewed as constituting international emissions.

When this data is plotted on the attached map of the U.S., it can be seen that <u>but for</u> international transport no monitor in the United States would have an ozone concentration in 2017 greater than 66 ppb — well below the 2015 ozone NAAQS of 70 ppb.

Given the fact that any area in nonattainment with standard NAAQS is subject to significant restrictions on economic development and job growth, given the significant role of international emissions, and given the dramatic reductions already undertaken across the U.S., it is imperative that implementation of the 2015 ozone NAAQS be undertaken in a way that does not unreasonably burden States with further control obligations, and reward international competitors at the expense of American workers.

Improved Ozone Air Quality

To illustrate the progress that states have made to reduce ozone concentrations, MOG has taken the most recent monitoring and modeling data and applied it to a series of maps to illustrate the monitors that remain in nonattainment at ozone concentrations from 70 to 75 ppb. These maps may be found at: http://www.midwestozonegroup.com/files/Assessment_of_International_Transport_and_Improved_Ozone_Air_Quality_6.22.17.ppt.

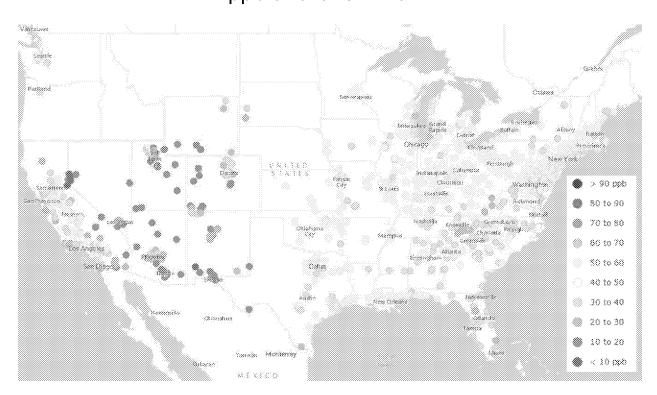
Conclusion

International emissions are a significant contributor to ozone concentrations to all monitors in the U.S. But for international emissions, no monitor in the U.S. is predicted by EPA to have an ozone concentration greater than 66 ppb in 2017. Given the tremendous progress that has already been made by states in improving air quality, properly addressing international emission will eliminate the negative impact of the ozone NAAQS on economic development and job growth.

A copy of this paper may be found at:

http://www.midwestozonegroup.com/files/Assessment of International Transport and Improved Ozone Air Quality 6.22.17.do cx

But for international emissions, no monitor in the US would exceed 66 ppb of ozone in 2017



No monitor with dv greater than 66 ppb Only 11 monitors with dv greater than 60 ppb

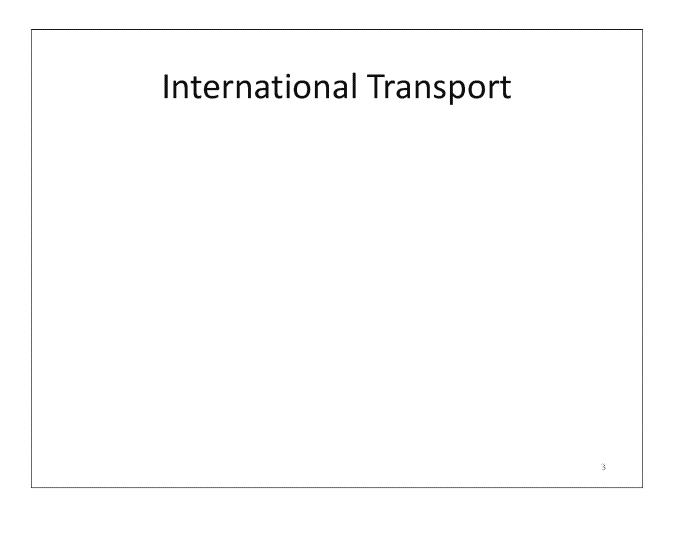
Data source: http://www.epa.gov/sites/production/files/2015-11/2017_ozone_contributions_transport_noda.xlsx

Assessment of International Transport and Improved Ozone Air Quality

Prepared by the Midwest Ozone Group June 22, 2017

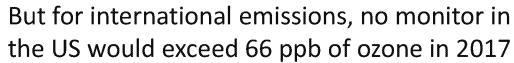
Introduction

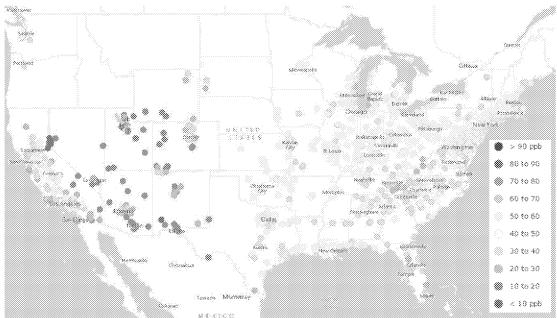
- Midwest Ozone Group (MOG) members own or operate more than 80,000 mw of fossil fuelfired or coal refuse-fired electric generating capacity and have been active in the
 development of EPA's rules related to the establishment and implementation of the national
 ambient air quality standard (NAAQS) for ozone. In the following comments MOG stated its
 specific concern about the need for EPA to address international transport:
 - 2015 ozone NAAQS (http://midwestozonegroup.com/files/MOG_OZONE_NAAQS_COMMENTS.pdf),
 - CSAPR Update: (http://midwestozonegroup.com/files/MOGCommentsonProposedCSAPRUpdate-Final.PDF), and the
 - 2015 ozone implementation rule
 - (http://www.midwestozonegroup.com/files/2015OzoneNAAQSImplementationRuleLetterandComments.PDF).
- On June 6, 2017, the EPA Administrator extended the deadline for promulgating designations
 related to the 2015 ozone NAAQS and in doing so noted that states have made "tremendous
 progress and significant investment cleaning up the air." The same letter identified that as
 part of the review process to be undertaken during the extension, EPA will be focusing on
 "appropriately accounting for international transport".
- This presentation is being offered to provide data to help inform the discussion of these issues.



Impact of International Transport

- EPA's Cross State Air Pollution Rule (CSAPR) projections for 2017 contain CAMx/APCA modeling data for significant contribution calculations (EPA-HQ-OAR-2015-0500-0459).
- In addition to identifying upwind state contributions, EPA tagged boundary conditions, initial conditions, Canadian, and Mexican emissions from 2011 all of which can be fairly viewed as constituting international emissions.
- The following slide denotes the impact on air quality projections if international emissions are eliminated from the calculation.
- As can be seen of the slide, but for international emissions no monitor in the United States would exceed 66 ppb in 2017.
- Clean Air Act Section 179B provides the legal basis for relief from requirements to submit implementation plans in such a situation. Moreover, EPA v. EME Homer City Gen.. 134 S.Ct. 1584, 1606 (April 29, 2014) prevents EPA from imposing controls on upwind states that are more than necessary to eliminate that state's contribution to nonattainment. In either case, accounting for international emissions should result in eliminating the need for states to impose new controls to address interstate transport.





No monitor with dv greater than 66 ppb Only 11 monitors with dv greater than 60 ppb

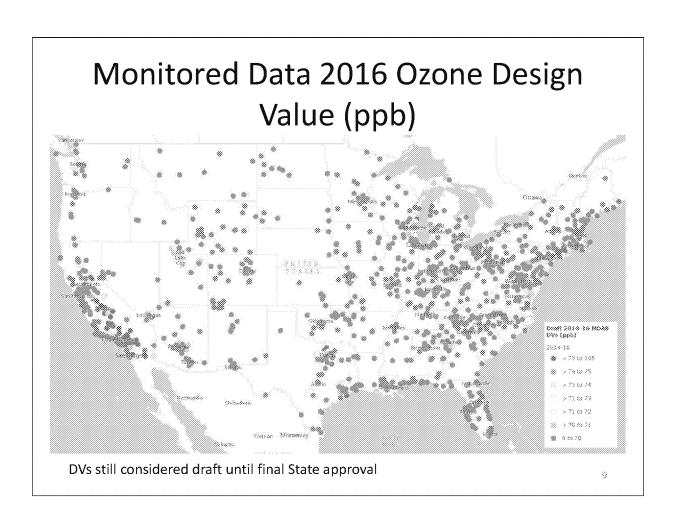
 $Data\ source: http://www.epa.gov/sites/production/files/2015-11/2017_ozone_contributions_transport_noda.xlsx$

Progress in Improving Ozone Ambient Air Concentrations

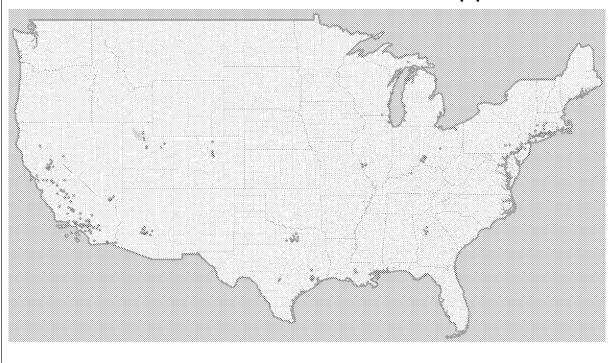
Progress in Improving Ozone Ambient Air Concentrations

- The following maps use two methods to illustrate the progress that is being made by states in achieving lower ozone concentrations by identifying which monitors exceed ozone concentrations from 70 to 75 ppb.
- Monitored Data Method: These slides apply the current 2014-16 MDA8 DVs monitored data (calculated from AFS Data Mart draft 2016 4th high values, January 2017 download). This is the data used to support nonattainment designations.
- Final CSAPR Method: These slides apply the same 2014-16 MDA8 DVs monitored data in combination with the 2017 modeling data from the final CSAPR Update rule (maximum daily 8-hour average design values (ppb) and source apportionment results obtained from file EPA-HQ-OAR-2015-0500-0459). This is the type of data used by EPA in the development of transport rules or Good Neighbor SIPs.

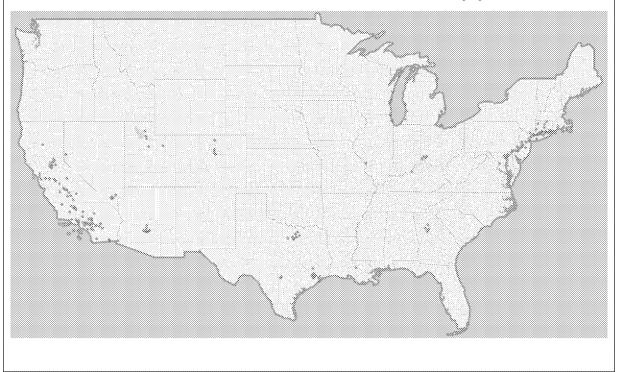
Monitored Data Method



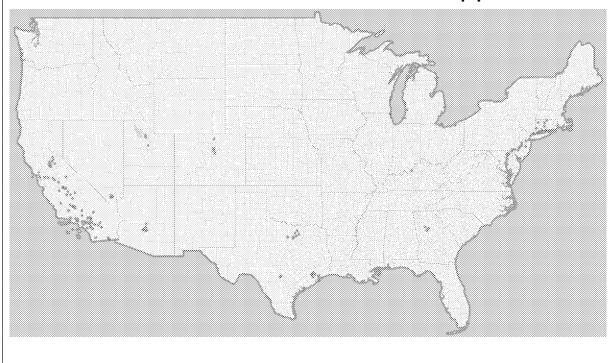
Monitored Data Method Indicating Ozone Nonattainment at 70 ppb



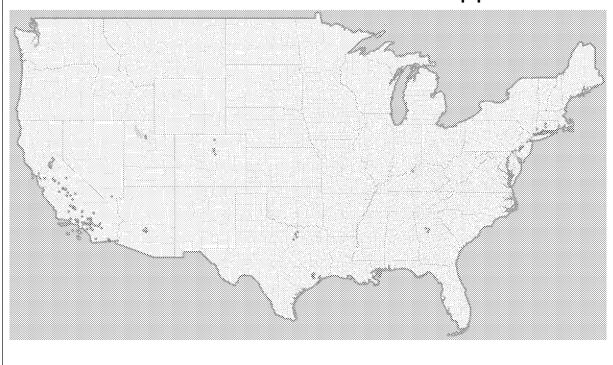
Monitored Data Method Indicating Ozone Nonattainment at 71 ppb



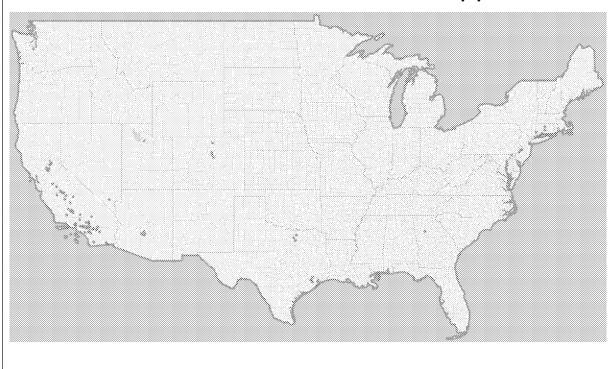
Monitored Data Method Indicating Ozone Nonattainment at 72 ppb



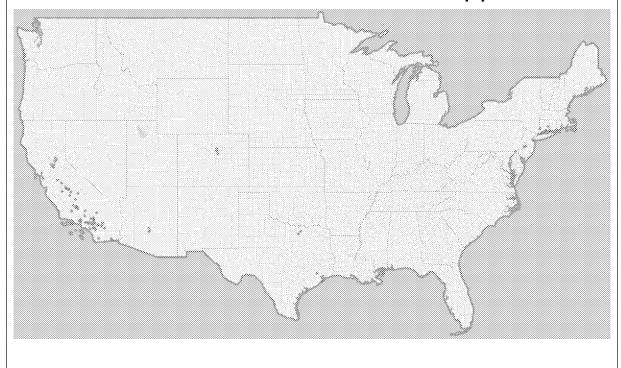
Monitored Data Method Indicating Ozone Nonattainment at 73 ppb

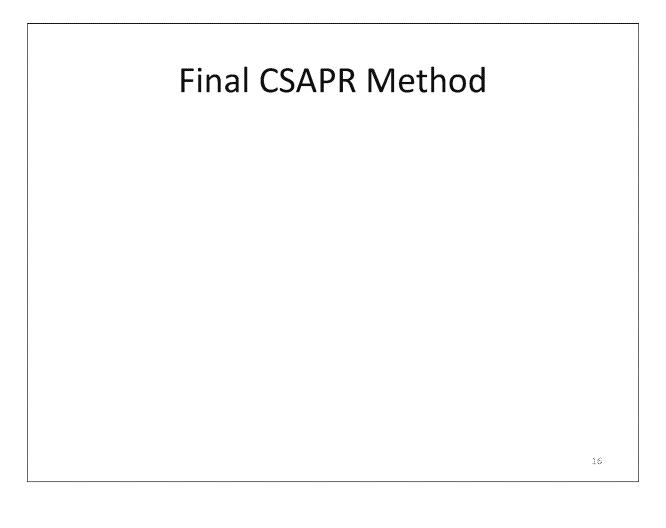


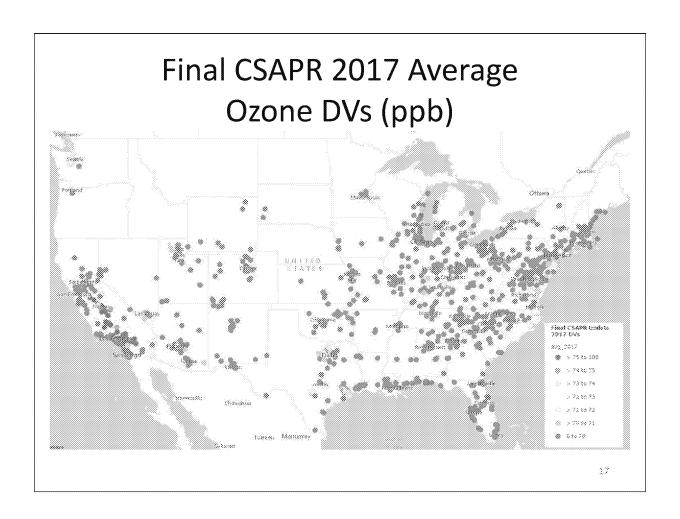
Monitored Data Method Indicating Ozone Nonattainment at 74 ppb



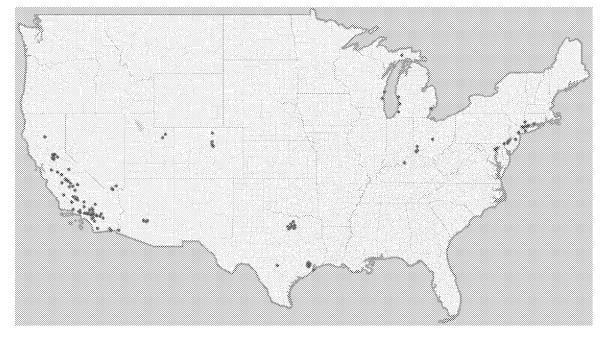
Monitored Data Method Indicating Ozone Nonattainment at 75 ppb



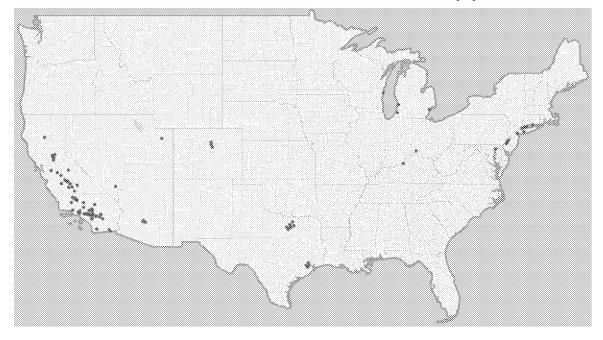




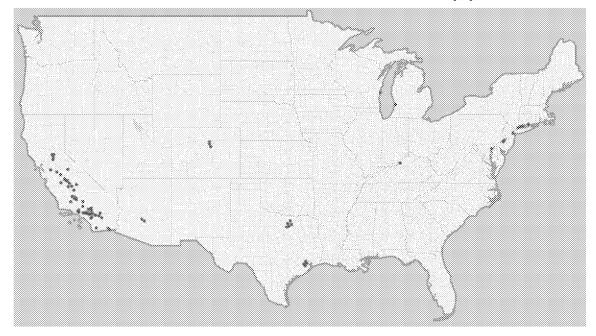
Final CSAPR Method Indicating Ozone Nonattainment at 70 ppb



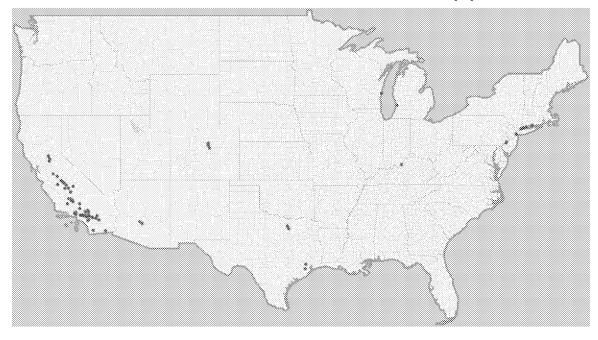
Final CSAPR Method Indicating Ozone Nonattainment at 71 ppb



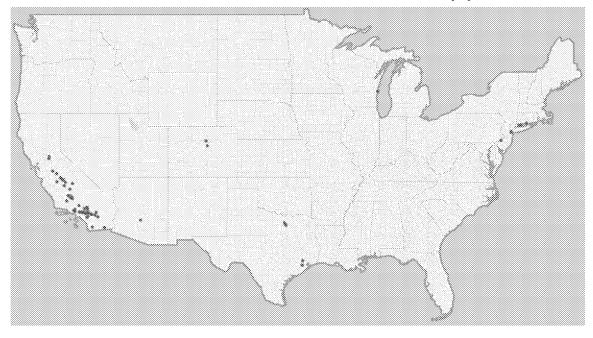
Final CSAPR Method Indicating Ozone Nonattainment at 72 ppb



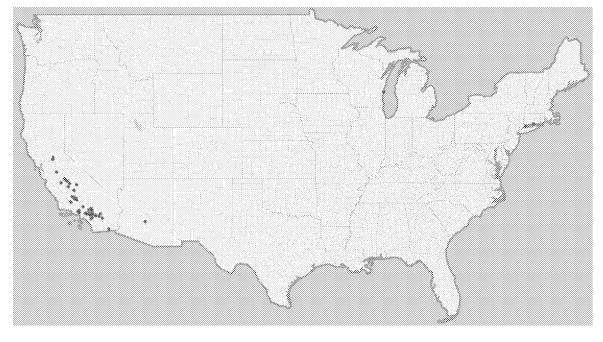
Final CSAPR Method Indicating Ozone Nonattainment at 73 ppb



Final CSAPR Method Indicating Ozone Nonattainment at 74 ppb



Final CSAPR Method Indicating Ozone Nonattainment at 75 ppb



For further information

See the web site for the Midwest Ozone Group at http://midwestozonegroup.com/index.html;

or contact

David M. Flannery
Steptoe & Johnson PLLC
P.O. Box 1588
Charleston, WV 25326-1588

Telephone: 304-353-8171

Email: dave.flannery@steptoe-johnson.com

Message

From: Betsy Monseu [bmonseu@americancoalcouncil.org]

Sent: 7/7/2017 9:03:06 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: 'Ken Riddle' [Ken.Riddle@lakelandelectric.com]
Subject: RE: American Coal Council thanks and invitation

Thank you for letting us know, Mandy. Another time, hopefully.

Betsy

Betsy B. Monseu | CEO | American Coal Council

1101 Pennsylvania Ave. NW, #300 Washington, DC 20004 Office 202.756.4540 | Direct 202.805.2310 bmonseu@americancoalcouncil.org www.americancoalcouncil.org

ACC 2017 Events

Spring Coal Forum—March 7-9, 2017 (Opal Sands Resort, Clearwater Beach, FL)
Eastern Fuel Buyers Conference reception—May 2, 2017 (Disney's Yacht & Beach Club, Lake Buena Vista, FL)
Coal Market Strategies—August 14-16, 2017 (Stein Eriksen Lodge, Park City, UT)
Coal Trading Conference—December 4-5, 2017 (Crowne Plaza Times Square, New York, NY)

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Friday, July 7, 2017 4:51 PM

To: Betsy Monseu bmonseu@americancoalcouncil.org
Cc: Ken Riddle Ken.Riddle@lakelandelectric.com
Lincolor: Mailto: Mailto:

Hi Betsy,

I apologize for the late response. Unfortunately I will not be able to make it and my colleague best suited to speak in my place is not available either.

I apologize for any inconvenience.

Best, Mandy

Sent from my iPhone

On Jul 5, 2017, at 2:13 PM, Betsy Monseu bmonseu@americancoalcouncil.org wrote:

Mandy, I believe Ken Riddle spoke with you last week regarding American Coal Council's invitation to speak at our upcoming Coal Market Strategies conference, per my earlier invitation to you to have a senior representative from EPA join us at our conference in Park City, Utah in August. I'm writing today to request a response from you/EPA one way or the other by COB tomorrow. I have other speakers committed for our program that I may need to re-arrange for our general sessions August 15th and 16th if EPA is unavailable to participate, and they have been holding off making travel plans while ACC finalizes the program.

We hope EPA can participate and I will appreciate hearing from you as to a Go or No Go. If this doesn't work out, we would invite EPA to join us at a future conference.

Thanks and regards, Betsy

Betsy B. Monseu | CEO | American Coal Council

1101 Pennsylvania Ave. NW, #300
Washington, DC 20004
Office 202.756.4540 | Direct 202.805.2310
bmonseu@americancoalcouncil.org
www.americancoalcouncil.org

<image001.png>

From: Betsy Monseu [mailto:bmonseu@americancoalcouncil.org]

Sent: Thursday, June 22, 2017 10:57 AM

To: Mandy Gunasekara (Gunasekara.Mandy@epa.gov) < Gunasekara.Mandy@epa.gov>

Subject: RE: American Coal Council thanks and invitation

Mandy, we are finalizing our Coal Market Strategies program plans and I wanted to check with you again. We would be most appreciative of a senior EPA representative addressing our group. This would be as part of a policy session on the afternoon of August 15th which will include presentations/addresses by Congressman Rob Bishop (R-UT) and Chair of the Hose Natural Resources Committee and also Dr. Laura Nelson, Energy Policy Advisor to Utah Governor Gary Herbert. Congressman Bishop will be addressing coal and energy policy in the context of the 115th Congress and Trump administration. Dr. Nelson will be discussing the States' role in coal and energy development. An EPA speaker would be a valuable part of this policy session.

Please let me know if EPA can accommodate our invitation.

Thanks and regards, Betsy

Betsy B. Monseu | CEO | American Coal Council

1101 Pennsylvania Ave. NW, #300 Washington, DC 20004 Office 202.756.4540 | Direct 202.805.2310 bmonseu@americancoalcouncil.org www.americancoalcouncil.org

H.R.	

To amend the Clean Air Act with regard to nonattainment plan provisions.

IN THE HOUSE OF REPRESENTATIVES

XX, 2017

A BILL

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.

This Act may be cited as the "Contingency Measures Act of 2017".

Section 2. Amendment

Section 172(c)(9) of the Clean Air Act, 42 U.S.C. §7502(c)(9), is amended to read as follows:

"(9) Contingency measures. -- Such plan shall provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the attainment date applicable under this part. Such measures shall be included in the plan provision as contingency measures to take effect in any such case without further action by the State or the Administrator. Nothing in this chapter shall preclude contingency measures from being implemented or taking effect in any manner prior to the time that an area fails to make reasonable further progress or to attain any national primary ambient air quality standard by the attainment date applicable under this part.

Message

From: Parinello, Chris [Chris.Parinello@valero.com]

Sent: 7/12/2017 4:57:59 PM

To: Morris, Madeline [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=f42c86b4a2044779972ac94e098f0304-Morris, Mad]

CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Zelermyer, Salo

[Salo.Zelermyer@valero.com]

Subject: RE: Meeting with Valero CEO and Administrator Pruitt

Attachments: External Meeting Request Form.docx

Hi Maddy—I've attached the meeting request for Monday AM. Could you let me know the potential/status of this whenever possible? Thank you!—Chris

From: Morris, Madeline [mailto:morris.madeline@epa.gov]

Sent: Tuesday, July 11, 2017 3:30 PM

To: Parinello, Chris < Chris. Parinello@valero.com>

Subject: RE: Meeting with Valero CEO and Administrator Pruitt

Hi Chris,

Mandy passed on your request to me. I worked with you over at Koch Industries, I just moved over here a few weeks ago. So sorry to just be circling back now. This weeks is going to be tight for a meeting. Do you mind filing out the attached form? I know it is a hassle, but we try and have everyone who is coming in fill it out.

Appreciate your help!

Best, Maddy

Madeline Morris Executive Scheduler | Office of the Administrator | direct: 202-564-0844 | cell: 202-579-4283

From: Parinello, Chris [mailto:Chris.Parinello@valero.com]

Sent: Friday, July 7, 2017 10:47 AM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov > **Cc:** Zelermyer, Salo < Salo. Zelermyer@valero.com >

Subject: Meeting with Valero CEO and Administrator Pruitt

Importance: High

Hi Mandy—Valero's Chairman and CEO Joe Gorder will be in Washington, D.C. next week. Following up on our meeting from last week on export RINs, Mr. Gorder would like to meet with Administrator Pruitt to discuss the topic. Would Administrator Pruitt be available Wednesday morning the 12th for a meeting with Mr. Gorder? If you could let me know (or direct me to the Administrator's scheduler) that would be much appreciated. Thank you!—Chris

Chris Parinello Senior Manager, Federal Government Affairs

Valero Energy Corporation Phone: (202) 560-5451

Email: chris.parinello@valero.com

External Meeting Request Form for Administrator E. Scott Pruitt

U.S. Environmental Protection Agency

To request the Administrator to attend and/or speak at your event, please complete and submit the following form.

Today's Date: 7/12/2017

Meeting Date: 7/17/2017

Meeting Time: AM

Requested Location (if offsite, please list address, parking instructions, etc.): EPA HQ

Requestor: Chris Parinello

Purpose of the Meeting: Meeting with Administrator Pruitt on RFS

Background on the Meeting: Follow up with EPA staff on RFS and RINs issues

Role of the Administrator: Attendee

Attendees: Valero Energy Corporation: Joe Gorder (Chairman and CEO), Jason Fraser (Vice President, Public Policy and Strategic Planning), Salo Zelermyer (Vice President and Counsel, Federal Government Affairs), Chris Parinello (Senior Manager, Federal Government Affairs)

Point of Contact: Chris Parinello (Cell: 703-801-5041)

Message

From: Rigamonti, Eva [erigamonti@steptoe.com]

Sent: 6/26/2017 2:49:04 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Frend, Jessica [jfrend@steptoe.com]

Subject: Follow up - availability to speak at D.C. event?

Good morning, Mandy—

Hope you had a nice weekend. I wanted to follow up with you on the email I sent you on June 15 (see below).

Would you be available to participate in a panel discussion on the future of the RFS on Tuesday, July 18th (12-1pm) before the Society of Independent Gasoline Marketers of America (SIGMA) who will be in town to prepare for its annual Day on the Hill?

Many thanks,

Eva

From: Rigamonti, Eva

Sent: Thursday, June 15, 2017 10:44 AM

To: Gunasekara, Mandy **Cc:** Frend, Jessica

Subject: Thank you - availability to speak at D.C. event?

Good morning, Mandy!

It was lovely to meet you yesterday with the Association of American Railroads—thank you for the time you and your team shared with our group.

I wanted to reach out to ask if you would be available to speak to a group of about 60+ fuel marketers on Tuesday, July 18th at 12pm.

On Tuesday, July 18th, the Society of Independent Gasoline Marketers of America (SIGMA) will be in town to prepare for its annual Day on the Hill. As part of that preparation, we would like to have a panel discussion on the future of the RFS, an issue near and dear to our members' hearts.

Given your role in the program, I'd like to extend an invitation for you to participate in the discussion. We believe this would provide an opportunity for our members to hear the EPA's outlook on the RFS and offer an opportunity for you to speak with and hear from our members on the matter.

The lunch would take place at the Willard Hotel at noon on July 18th. We hope you will be able to join us.

Don't hesitate to reach out with any questions you may have. (I've cc'd my colleague, Jessica Frend, who is helping to coordinate the event. Between the two of us we should be able to address any questions you have).

Many thanks for your consideration of this request,

Eva

Eva Rigamonti

Associate erigamonti@steptoe.com

Steptoe

+1 202 429 6457 direct +1 202 429 3902 fax Steptoe & Johnson LLP 1330 Connecticut Avenue, NW Washington, DC 20036 www.steptoe.com

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Message

From: Segal, Scott [scott.segal@bracewell.com]

Sent: 6/27/2017 1:16:21 AM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: New Harvard PM 2.5 Study

Attachments: air pollution.pdf; ATT00001.htm; air pollution editorial.pdf; ATT00002.htm

Mandy - have you seen this? Happy to discuss at your convenience, ss/

Sent from my iPad

SCOTT SEGAL

Partner

scott.segal@policyres.com

T: +1.202.828.5845 | F: +1.800.404.3970

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2001 M Street NW, Suite 900 | Washington, D.C. | 20036-3310 policyres.com | profile | download v-card



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Begin forwarded message:

From: "Segal, Scott" <scott.segal@bracewell.com>

This new Harvard (NEJM) study is embargoed until 5pm on Weds, but could get splashy tomorrow. Purports to show 2.5 benefits below NAAQS level. Will be used to criticize CPP repeal, of course. And Paris. Big sample set.

Talkers might include the 88% drop in PM AQI days since 2001.

Or energy poverty concerns if zero PM tolerance were adopted. Including health tradeoffs based on resource diversion and unemployment.

The study itself doesn't seem to control enough factors, like the fact the poverty correlates with indoor air pollution more so than outdoor, making the ambient conclusions specious.

I predict you folks will need to address this in the next day or so!

Message

From: MCSHANE, JOHN B [JOHN.MCSHANE@pes-companies.com]

Sent: 6/23/2017 6:18:48 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Dominguez, Alexander

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=5ced433b4ef54171864ed98a36cb7a5f-Dominguez,]

CC: Johnson Koch, LeAnn M. (Perkins Coie) [LeAnnJohnson@perkinscoie.com]; Hughes, Krista (Perkins Coie)

[KHughes@perkinscoie.com]

Subject: Philadelphia Energy Solutions Refining and Marketing LLC - Follow up Letter

Attachments: Letter to EPA 6-23-17r.pdf; John McShane.vcf

Mandy – Alex

Thank you for meeting with us on Wednesday to discuss the Renewable Fuel Standard and the effect of RINs costs on our business. As discussed at the meeting, I am attaching a letter that describes the legal basis for a waiver of the RINs compliance obligation and background information relating our business and RINs costs. Please note that the letter contains confidential business information.

We are available to discuss the letter with you and your colleagues at EPA at any time, and are prepared to provide any additional information necessary to support the request.

John B. McShane EVP and General Counsel Philadelphia Energy Solutions Refining and Marketing LLC (267) 238 4341

Contact

Full Name: John McShane
Last Name: McShane
First Name: John

Company: Philadelphia Energy Solutions LLC

Business Address: 1735 Market Street Philadelphia, PA 19103

Muui ess.

Business (267) 238-4341

Phone:

Mobile Phone: (917) 690-9623

E-mail: John.McShane@PES-Companies.com

From: Paul Balserak [pbalserak@steel.org]

Sent: 5/8/2017 2:44:34 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Introduction

Understood. Will look forward to seeing you at some other time. Had drinks with Lesley (Schaaff) last Thursday, in case your ears were burning then now you know why.

Paul

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, May 08, 2017 10:41 AM

To: Paul Balserak

Subject: RE: Introduction

Hey Paul, I'm going to be out at the White House during that time, so won't be around to meet you in person. I hope the meeting goes well and look forward to following up in person soon.

Best, Mandy

From: Paul Balserak [mailto:pbalserak@steel.org]

Sent: Monday, May 8, 2017 10:07 AM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>

Subject: RE: Introduction

Mandy - I will be in with the Administrator on WOTUS today from 2:45-3:15. May try before or after to poke my head in and say hi. If there's a better time earlier or later, just let me know. I know you are swamped, though, so no problem if you can't make it work

Best, Paul

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Thursday, April 20, 2017 5:03 PM

To: Paul Balserak

Subject: RE: Introduction

Great – I'll give you a call at 10:30 tomorrow. Look forward to talking soon.

Have a good night,

Mandy

From: Paul Balserak [mailto:pbalserak@steel.org]

Sent: Thursday, April 20, 2017 5:02 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov >; Brown, Byron < brown.byron@epa.gov >

Subject: RE: Introduction

Mandy,

10 to noon is open tomorrow. Could make other times work, but would be more difficult. 703-969-1789 is the best #.

Look forward to talking,

Paul

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Thursday, April 20, 2017 4:59 PM

To: Paul Balserak; Brown, Byron **Subject:** RE: Introduction

Byron,

Thank you for the introduction. Paul, do you have anytime tomorrow that would work for a quick call? I'm flexible from 10 to 2 pm. Also after 4 pm. If tomorrow works, what is the best number to reach you?

Best, Mandy

From: Paul Balserak [mailto:pbalserak@steel.org]

Sent: Thursday, April 20, 2017 3:42 PM

To: Brown, Byron < brown.byron@epa.gov>; Gunasekara, Mandy < Gunasekara.Mandy@epa.gov>

Subject: RE: Introduction

Mandy,

Very good to meeting you. I'm happy to catch up if you want, and I can accommodate myself to your schedule. Just let me know.

Byron, thank you for the intro. Hope you are well.

Paul

Paul Balserak

Vice President, Environment

American Iron and Steel Institute 25 Massachusetts Ave. NW, Suite 800 Washington, DC 20001 202 452-7122 (office) 703 969-1789 (mobile)

From: Brown, Byron [mailto:brown.byron@epa.gov]

Sent: Thursday, April 20, 2017 1:27 PM **To:** Gunasekara, Mandy; Paul Balserak

Subject: Introduction

Mandy – I wanted to introduce you to Paul Balserak. He worked in the Office of Policy for a number of years, including on many high profile Clean Air Act rules, and now works for the American Iron and Steel Institute.

Paul -- Mandy is the senior advisor to the Administrator for air and radiation issues.

Byron R. Brown Deputy Chief of Staff for Policy Office of the Administrator U.S. Environmental Protection Agency

From: Wagner, Kenneth [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=048236AB99BC4D5EA16C139B1B67719C-WAGNER, KEN]

Sent: 5/15/2017 5:44:56 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: RLSmithII@Venable.com

Subject: Re: R5 Issue

Hi Rob:

I would be happy to assist. Lots of tight windows as I was in Region 8 and three states last week. I am taking the train to Region 3 tomorrow am and may have some time I could speak. Let me know if that might work.

Ken

Kenneth E. Wagner
Senior Advisor to the Administrator
For Regional & State Affairs
LIS Environmental Protection Agency

US Environmental Protection Agency

Office: 202-564-1988 Cell: 202-309-2418

wagner.kenneth@epa.gov

On May 15, 2017, at 12:14 PM, Gunasekara, Mandy Gunasekara.Mandy@epa.gov wrote:

Hi Ken,

I'm connecting you with my friend Rob Smith (cc'd) who is having some issues out in Region 5 with regards to a mine. I think you would be a good place to start. Let me know if you need help from my end (or Sarah's if it involves water).

Rob, as I mentioned, Ken is the Administrator's go-to person for all things involving in the Regional Offices.

Best,

Mandy

From: Stephanie Salmon [ssalmondc@gmail.com]

Sent: 5/8/2017 8:11:21 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Meeting Request with Sarah Greenwalt from Plumbing Manufacturers Intl for week of May 22, 2017

Thanks Mandy!!

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, May 8, 2017 4:02 PM

To: Stephanie Salmon <ssalmondc@gmail.com> **Cc:** Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Subject: RE: Meeting Request with Sarah Greenwalt from Plumbing Manufacturers Intl for week of May 22, 2017

Hi Stephanie,

Great seeing you as well! I've cc'd Sarah.

Sarah, Stephanie is great and has a couple of folks that would like to touch base on water issues.

I hope you both can find a time to connect.

Best, Mandy

From: Stephanie Salmon [mailto:ssalmondc@gmail.com]

Sent: Monday, May 8, 2017 1:42 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>

Subject: Meeting Request with Sarah Greenwalt from Plumbing Manufacturers Intl for week of May 22, 2017

Importance: High

Mandy

Great to run into you at National Airport last week. Hope your presentation went well in Florida! As I mentioned, Plumbing Manufacturers International (Kohler, Moen, Delta Faucet, American Standard, Toto, Sloan Valve...) would like to meet with Sarah Greenwalt on a couple of water-related issues the week of May 22. (The attached letter describes the issues and serves as our formal meeting request). We know that you are all very busy. We would certainly appreciate your help in connecting us with Sarah.

Thanks so much. I'll be back in touch soon to set up a meeting with you and members of the Am Foundry Society.

Have a great week.

Stephanie

Stephanie Salmon

On behalf of Plumbing Manufacturers International

Potomac Government Relations 25 Massachusetts Ave., NW I Suite 800 Washington, D.C. 20001

Ofc: 202-452-7135 | Cell: 571-242-0186

Email: ssalmondc@gmail.com

From: Stephanie Salmon [mailto:ssalmondc@gmail.com]

Sent: Tuesday, April 18, 2017 12:48 AM

To: greenwalt.sarah@epa.gov

Cc: Mandy Gunasekara - EPA Gunasekara.Mandy@epa.gov; Jackson.Ryan@epa.gov Subject: Meeting Request with EPA from Plumbing Manufacturers Intl for May 2017

Importance: High

Sarah

Good evening. On behalf of Plumbing Manufacturers International (PMI), we would like to request a meeting with you concerning water infrastructure and in particular, the EPA WaterSense program. In a time where each program at EPA is being carefully reviewed and budget decisions are being weighed, PMI believes the WaterSense program has demonstrably proven to be a sound investment of EPA's resources. This is a true public-private partnership, and an effort that requires the federal government to play a key facilitating role. Please find attached a formal letter to Administrator Pruitt highlighting our strong support for the WaterSense program and our request for a meeting.

PMI is the nation's leading trade association for plumbing product manufacturers. Its members produce 90 percent of the plumbing products sold in the United States and employ thousands of workers in over 70 locations in 25 states. Our member companies' plumbing products are found in the majority of homes, commercial buildings, schools, restaurants, manufacturing facilities, hospitals, and hotels across the nation.

We look forward to hearing back from you regarding our availability to meet in May. In the meantime, if you have any questions or need additional information, please do not hesitate to contact me.

Thanks, Stephanie

Stephanie Salmon
On behalf of Plumbing Manufacturers International

Potomac Government Relations 25 Massachusetts Ave., NW I Suite 800 Washington, D.C. 20001 Ofc: 202-452-7135 | Cell: 571-242-0186

Email: ssalmondc@gmail.com

From: Mark Carr [markc@channeldesigngroup.com]

Sent: 5/23/2017 9:19:57 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: catching up--second reply

Would it be helpful to see the letters I've sent to the WH lately? Happy to share.

The letters have all been from me as a citizen. I'm trying to keep the CO2 Coalition's powder dry for now. We don't lobby much (501C3) but don't shy away when we need to jump in.

Best,

MJC

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Tuesday, May 23, 2017 3:40 PM

To: Mark Carr <markc@channeldesigngroup.com>

Subject: RE: catching up

Hi Mark,

Thank you for your note. I'm booked the rest of this week, so apologize for not being available while your expert is in town. Would sometime next week work?

Best, Mandy

From: Mark Carr [mailto:markc@channeldesigngroup.com]

Sent: Tuesday, May 23, 2017 1:57 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>

Subject: catching up

Hope all's great with Personal Matters / Ex. 6 you.

Do you have time for me to come visit you about science and economic advice and support? One of my experts, Leighton Steward, is coming to DC over the next couple days and could be available to accompany me to your office. Short notice for me, too. I only know of this visit because I called him this AM on an unrelated matter.

I want to let you know that I've sent the President, through the VPOTUS chief of staff Josh Pitcock, a letter urging POTUS to buck-up and resist the pressure to make a Remain statement or off-hand remark at the G7.

I sent a letter to POTUS, but actually aimed at Josh, to organize a briefing of scientists and economists who actually supported Trump-Pence. That's in contrast to the meetings he's been taking with climate friends of the first children who despise the President and worked for his defeat. My message pointed out the State and Commerce need the benefit of our perspective.

Last night I sent emails to about 10 R senators plus Manchin asking them to sign the Sen Paul and Sen Inhofe Exit letters. In Rayburn today I ran into Rep McKinley. I said I heard he was trying to help Exit, that I was working Exit in the Senate, and offered to help McKinley if I could. Exchange of biz cards but nothing more at this point. I may see him tomorrow at a PAC event.

Hope to hear from you soon, Mark J Carr Channel Design Group 314-616-6957 DC - NOLA - StL Want your kids outside more? Go to www.RiverWorksDiscovery.org

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From: Conrad Lass [conrad.lass@ogilvygr.com]

Sent: 5/5/2017 5:15:21 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Hello Mandy,

Happy Friday. I hope all is well with you. I am reaching out to see if you have any time during the dates below to meet with Nancy Levenson, who is VP of Government Relations and runs the DC office for Ecolab. She would like to meet you and have the opportunity to discuss PRIA, Ecolab's antimicrobial business as well as their Nalco Water management and efficiency business. Would any of these dates work for you to meet with her? Thank you in advance for your time and consideration of this meeting request. I really appreciate it.

Best regards,

Con

5/17 from 11:30-2:30 5/18 from 9-12 5/23 from 3-4:30pm 5/24 from 4-5pm 5/25 from 9:30-11:30am

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From: Riddle, Ken [Ken.Riddle@lakelandgov.net]

Sent: 5/3/2017 9:31:26 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: Flight

Thanks Mandy. Give me a call when you get in.

Ken

```
> On May 3, 2017, at 3:39 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:
```

> Just heads up that my flight gets in around 7:30 tonight so I'll miss the reception but I look forward to seeing everyone tomorrow.

```
> Best,
> Mandy
> Sent from my iPhone
> ______
```

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From: Bennett, Tate [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1FA92542F7CA4D01973B18B2F11B9141-BENNETT, EL]

Sent: 4/27/2017 4:40:10 PM

To: Wright, Jennie (Inhofe) [Jennie_Wright@inhofe.senate.gov]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange

Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Richardson, RobinH [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=2fa5c9eb65dc497c81a8dc9ccdb1ffa7-Richardson, RobinH]

Subject: RE: Letter to Administrator Pruitt from Senator Inhofe

Thanks, Jennie! Will take a look and flag this ASAP.

From: Wright, Jennie (Inhofe) [mailto:Jennie_Wright@inhofe.senate.gov]

Sent: Thursday, April 27, 2017 12:14 PM

To: Bennett, Tate <Bennett.Tate@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>

Subject: Letter to Administrator Pruitt from Senator Inhofe

Tate and Mandy,

Attached is a letter from Senator Inhofe to Administrator Pruitt regarding two carbon black companies with Oklahoma facilities. Please let me know if you have any questions.

Sincerely,
Jennie H. Wright
Legislative Counsel
U.S. Senator James M. Inhofe
205 Russell Senate Office Building
Washington, DC 20510
(202) 224-4721 | Main
(202) 228-0380 | Fax

From: Paul Balserak [pbalserak@steel.org]

Sent: 5/3/2017 2:41:21 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Introduction

Hi Mandy – I'll be there this coming Monday for a meeting with Administrator Pruitt at 2:45pm. Any chance I could stop by before or after just to say hi for a few minutes?

Best, Paul

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Thursday, April 20, 2017 5:03 PM

To: Paul Balserak

Subject: RE: Introduction

Great – I'll give you a call at 10:30 tomorrow. Look forward to talking soon.

Have a good night,

Mandy

From: Paul Balserak [mailto:pbalserak@steel.org]

Sent: Thursday, April 20, 2017 5:02 PM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov >; Brown, Byron < brown.byron@epa.gov >

Subject: RE: Introduction

Mandy,

10 to noon is open tomorrow. Could make other times work, but would be more difficult.

Personal Phone / Ex. 6 IS the best #.

Look forward to talking,

Paul

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Thursday, April 20, 2017 4:59 PM **To:** Paul Balserak; Brown, Byron

Subject: RE: Introduction

Byron,

Thank you for the introduction. Paul, do you have anytime tomorrow that would work for a quick call? I'm flexible from 10 to 2 pm. Also after 4 pm. If tomorrow works, what is the best number to reach you?

Best, Mandy

From: Paul Balserak [mailto:pbalserak@steel.org]

Sent: Thursday, April 20, 2017 3:42 PM

To: Brown, Byron

 Srown, byron@epa.gov>; Gunasekara, Mandy <Gunasekara, Mandy@epa.gov>

Subject: RE: Introduction

Mandy,

Very good to meeting you. I'm happy to catch up if you want, and I can accommodate myself to your schedule. Just let me know.

Byron, thank you for the intro. Hope you are well.

Paul

Paul Balserak

Vice President, Environment

American Iron and Steel Institute 25 Massachusetts Ave. NW, Suite 800 Washington, DC 20001 202 452-7122 (office) 703 969-1789 (mobile)

From: Brown, Byron [mailto:brown.byron@epa.gov]

Sent: Thursday, April 20, 2017 1:27 PM **To:** Gunasekara, Mandy; Paul Balserak

Subject: Introduction

Mandy – I wanted to introduce you to Paul Balserak. He worked in the Office of Policy for a number of years, including on many high profile Clean Air Act rules, and now works for the American Iron and Steel Institute.

Paul -- Mandy is the senior advisor to the Administrator for air and radiation issues.

Byron R. Brown
Deputy Chief of Staff for Policy
Office of the Administrator
U.S. Environmental Protection Agency

From: Michael Formica [formicam@nppc.org]

Sent: 5/22/2017 5:28:35 PM

To: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]; Gunasekara, Mandy

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Livestock Air Emissions

Importance: High

Sarah, Mandy

Hope your doing well.

Just wanted to touch base and see if this request from an EPA researcher down in Research Triangle Park was related to our ongoing communications over responding to the DC Circuits decision on air emissions from livestock farms.

Thanks

Michael C. Formica
Assistant Vice President & Legal Counsel, Domestic Policy
National Pork Producers Council
202.680.3820

From: Fattal, Chelsey [mailto:fattal.chelsey@epa.gov]

Sent: Monday, May 22, 2017 11:07 AM

To: Pork Board <info@pork.org>

Subject: Request for Project/Article 10-078

Hello,

I'm contacting you today to gain access to the following report (Project/Article 10-078):



fragrams .

Evaluation and Analysis of NAEMS Pork Data

Project / Adicte 8

Category

Eata Received:
Institution Name & Location
Name & Contact Info for P1

Environment - Air

3/21/2012

10-078

Pordue University

Albert J. Heber

Industry Summary

For this reason, your website indicated that I must contact you, in order to see it (as shown in the screenshot below). Please let me know if this is possible.

FOR FULL PÉPORT, PLEASE CONTACT THE NATIONAL PORK BOARD

Here is a link to the above screenshots: http://research.pork.org/Results/ResearchDetail.aspx?id=1538

Thank you very much for your time and help today. I look forward to hearing from you soon.

Sincerely, Chelsey Fattal

U.S. Environmental Protection Agency Office of Research & Development National Risk Management Research Laboratory Air Emissions Modeling Support

Please conserve our natural resources, think twice before you print this e-mail.

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From: Kathy Bergren [Bergren@ncga.com]

Sent: 5/25/2017 12:43:47 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Administrator Pruitt's RFS Comments

Mandy:

Apologies for email you on an issue after we just met last week, but we had some questions about Administrator Pruitt's RFS comments yesterday at the Faegre Baker Daniels forum.

We certainly appreciate his comments yesterday that the agency is committed to issuing the 2018 RVOs in a timely, consistent manner. However, we were concerned with the statement about deficiencies in how the RFS statute is framed and that Congress needs to respond.

As you likely know, there is an ongoing process among groups of Members in both the House and Senate to develop new RFS legislation. Administrator Pruitt's statement led us to question the extent EPA may be encouraging Congress to change to RFS law or taking a role in that process.

We didn't attend this forum in person, but read the Administrator's comments in a news report of the event, which doesn't always provide the full context. However, NCGA would encourage EPA to continue to administer the RFS according to the current statute, and if you can shed any light on EPA's views about what Congress should address in the RFS, that would be appreciated.

Thanks for your time, Kathy

Kathy Bergren

Director, Public Policy National Corn Growers Association 20 F Street NW, Suite 600 202-326-0649 Direct 202-297-5032 Mobile bergren@ncga.com

The information in this email, and any attachments, is intended by the National Corn Growers Association for the use of the named individual or entity to which it is addressed and may contain information that is privileged, proprietary, copyrighted, trademarked, etc. or otherwise confidential. It is not intended for transmission to, or receipt by, any individual or entity other than the named addressee (or a person authorized to deliver it to the named addressee), except as otherwise expressly permitted in this electronic mail transmission. If you have received this communication in error, please delete it without copying or forwarding it, and notify the sender of the error by reply email.

From: Chip Murray [cmurray@nafoalliance.org]

Sent: 5/24/2017 4:55:01 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Dave Tenny [dtenny@nafoalliance.org]

Subject: Biomass

Hi Mandy, hope all is well. It occurred to us that USDA has placed a lot of material in the record at EPA explaining the benefits of biomass as a source of renewable energy. I do not believe that this material was given any credence at the time. As you proceed on this issue, particularly if you are considering the Threshold Rule, it would likely be helpful to be briefed by Bill Hohenstein and Rob Johansson from the Chief Economist's office at USDA. Dave Tenny will be sending you their contact information. Meanwhile, here is a blog on biomass that Rob pushed out a couple of years ago: https://www.usda.gov/media/blog/2015/06/8/study-finds-increasing-wood-pellet-demand-boosts-forest-growth-reduces. Please let me know if we can be of help. Chip

Chip Murray Vice President for Policy & General Counsel National Alliance of Forest Owners (202) 747-0742

www.nafoalliance.org

From: The White House [noreply@whitehouse.gov]

Sent: 4/29/2017 5:16:34 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RSVP Confirmation

THE WHITE HOUSE

WASHINGTON

Dear Amanda,

Thank you for submitting your RSVP. We have received your information. Please reach out to your point of contact with any questions.

Sincerely, The White House

The White House • 1600 Pennsylvania Avenue, N.W. • Washington, D.C. 20500 • 202-456-1111

From: The White House [noreply@whitehouse.gov]

Sent: 5/15/2017 5:37:14 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RSVP Confirmation

THE WHITE HOUSE

WASHINGTON

Dear Amanda,

Thank you for submitting your RSVP. We have received your information. Please reach out to your point of contact with any questions.

Sincerely, The White House

The White House • 1600 Pennsylvania Avenue, N.W. • Washington, D.C. 20500 • 202-456-1111

From: Brunner, Jan (EPW) [Jan_Brunner@epw.senate.gov]

Sent: 4/26/2017 5:33:09 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: EPW Fondue Bitches

```
Sent from my iPhone

> On Apr 26, 2017, at 12:19 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

> YES YES YES YES!! I am in come hell or high-water. My Ex. 6 Personal Privacy (PP) may be in town that weekend -- is it okay to bring in some out of towners?

> I miss you all! Glad the ladies are still running the place:)

> ----Original Message----

> From: Brunner, Jan (EPW) [mailto:Jan_Brunner@epw.senate.gov]

> Sent: Wednesday, April 26, 2017 11:13 AM

> To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>

> Subject: FW: EPW Fondue Bitches

> Elizabeth Horner, Jess Clowser, Mandy Tharpe, and Kelsey Keegan (our new LA from Ayotte's office) are all in. I figure you might be super busy but we'd love you to come if you can. Hope everything is going well. Miss you!!!!!

> Saturday, May 20th, who is up for fondue night at my place? Used to host them all the time but all my girlfriends Ex. 6 Personal Privacy (PP)

| Big salad, authentic Swiss cheese fondue and then chocolate fondue. And wine. Who's game?
```

Michael Stafford [MStafford@ajw-inc.com] From:

Sent: 4/28/2017 3:17:27 PM

To: Woodward, Cheryl [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=7a0d6a3af92640248638ca24fe87a777-Woodward, Cheryl]; Hupp, Sydney

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=d50089ff1a5b4c83baa0160afe2c33cb-Hupp, Sydne]; Gunasekara, Mandy

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Haley Armstrong [harmstrong@icac.com]

Subject: RE: Question on ICAC's Meeting with Administrator Pruitt on May 4

Attachments: ATT00001.txt

Cheryl:

Thanks much for your quick follow-up and the background info. Very helpful!

We'll definitely have the names to you by COB Tuesday, and very likely by COB Monday.

Michael Michael Stafford Partner AJW, Inc. 202-296-8086/Ext. 104 (Office)

202-299-4577 (Cell)

AJW's work focuses on enhancing market opportunities and removing market barriers for innovative technologies.

From: Woodward, Cheryl [mailto:Woodward.Cheryl@epa.gov]

Sent: Friday, April 28, 2017 10:31 AM

To: Hupp, Sydney <hupp.sydney@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Michael Stafford

<MStafford@ajw-inc.com>

Subject: RE: Question on ICAC's Meeting with Administrator Pruitt on May 4

My name is Cheryl Woodward and I will assist you in the logistics for your meeting at EPA on Thursday, May 4th at 8 am. The instructions/directions to EPA is below and if you have any questions please contact me. I need your list of attendee's no later than Tuesday close of business. Our security will have the passes ready after each person goes through their check. The requirements are below and if you have any questions please contact me. Look forward to seeing you all.

Directions

Directions: If you come by Metro, the Federal Triangle metro stop is directly below the building entrances. You would leave the metro station and go up all three sets of escalators and then do a small U-Turn to the right heading toward 12th street, the North Lobby entrance is directly and immediately to your left (Glass Doors -EPA Signified on Glass).

EPA address is 1200 Pennsylvania Avenue, NW. If you are coming by taxi/vehicle, you want to be dropped off on 12th NW, which is between 12th and Constitution Avenues. It is almost exactly half way between the two avenues on 12th street and the Federal Triangle Metro sign can be used as a landmark. From 12th Street, facing the building with the EPA and American flags, walk toward the building (under the flags) and take the glass door on your left hand side with the escalators going down to the metro on your left. This again will be the **South Lobby of the William Jefferson Clinton building.**

Once inside the building, security will prompt you to scan all items such as bags, coats etc., and then let the guards know that you were instructed to call Cheryl Woodward at 564-1274 or Michelle Hale at 564-1430 to escort you to the meeting with the Administrator. Security will make temporary cards for everyone. Allow for 15 minutes to get through the process

From: Hupp, Sydney

Sent: Friday, April 28, 2017 9:43 AM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov >; Michael Stafford < MStafford @ajw-inc.com >

Cc: Hupp, Millan <hupp.millan@epa.gov>; Woodward, Cheryl < Woodward.Cheryl@epa.gov>

Subject: RE: Question on ICAC's Meeting with Administrator Pruitt on May 4

Thank you Mandy! Michael, I am looping in Millan who handles advance for all events and Cheryl who handles logistics for all visitors. As it stands now Cheryl has a room with tables set up for a round table with microphones for discussion. It can accommodate about 50 people I believe. She will need a list of attendees to give to security before the day of. I will let her and Millan sort out the rest of the details with you. We are looking forward to having you all here!

Thanks!

Sydney Hupp

Executive Scheduler Office of the Adminsitrator 202.816.1659 (c)

From: Gunasekara, Mandy

Sent: Friday, April 28, 2017 9:38 AM

To: Michael Stafford < MStafford@ajw-inc.com Cc: Hupp, Sydney hupp.sydney@epa.gov

Subject: RE: Question on ICAC's Meeting with Administrator Pruitt on May 4

Hi Michael,

We are looking forward to next week's meeting. I've cc'd Sydney who can answer your questions. We do have a draft agenda and list of all ICAC members (which I believe came from you). It would be helpful to have a list of the companies that will be in attendance. On questions, the Administrator tends to ask questions all throughout the presentations, but it will be good to set aside time for Q&A.

I'm not sure on our technical capabilities, so I'll let Sydney fill in on that.

Best, Mandy

From: Michael Stafford [mailto:MStafford@ajw-inc.com]

Sent: Friday, April 28, 2017 9:21 AM

To: Gunasekara, Mandy < <u>Gunasekara.Mandy@epa.gov</u>>
Subject: Question on ICAC's Meeting with Administrator Pruitt on May 4

Mandy:

As I'm sure you know, next Thursday (May 4th) we are bringing the Institute of Clean Air Companies down to meet with Administrator Pruitt. This is the morning after you speak to the group on May 3. One of the primary purposes of the May 4th meeting with the Administrator is for folks on our side of the table to provide a substantive overview and update on air pollution measurement and control technologies. Chris Hessler of our firm initially worked with Ryan to schedule this briefing and subsequently had a brief call with Sydney Hupp to discuss the need to move the briefing time on May 4th from 9:00-10:30 AM up to 8:00-9:30 AM, which we accommodated.

Since we're less than a week out and we'll be jammed up on May 2-3 with the first two days of the ICAC Washington Summit, I'm hoping to connect up with the appropriate staff in your shop to talk thru the logistics of the May 4th briefing session: "Will you need individual and/or company names in advance, will we be able to use slides, overall format, desired level of Q&A, etc." We certainly want the Administrator and any EPA staff in the room to find the meeting of significant value and it would be helpful in achieving that intent if I could connect briefly by phone with someone in your shop to compare notes.

FYI—I left a VM at 8:30 this morning for Sydney. Am sending this your way in case you could pass this along to Sydney or whomever I need to connect up with to make sure ICAC makes this meeting as substantively valuable as possible for your shop.

Best regards and very much look forward to seeing you on May 3rd.

Michael

Michael Stafford Partner AJW, Inc. 202-296-8086/Ext. 104 (Office) 202-299-4577 (Cell)



AJW's work focuses on enhancing market opportunities and removing market barriers for innovative technologies.

From: Maciolek Natalie - Attorney [Natalie.Maciolek@kohler.com]

Sent: 5/17/2017 12:38:48 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Automatic reply: Nice meeting you

I am out of the office on business May 16-18th. I will respond to your message as soon as I can. If you need immediate assistance, please contact Jane Rivers at 920-457-4441 x72832.

From: Wright, Jennie (Inhofe) [Jennie_Wright@inhofe.senate.gov]

Sent: 4/27/2017 4:14:24 PM

To: Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]; Gunasekara, Mandy

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Letter to Administrator Pruitt from Senator Inhofe **Attachments**: 2017.04.27 Inhofe letter re carbon black plants.pdf

Tate and Mandy,

Attached is a letter from Senator Inhofe to Administrator Pruitt regarding two carbon black companies with Oklahoma facilities. Please let me know if you have any questions.

Sincerely,
Jennie H. Wright
Legislative Counsel
U.S. Senator James M. Inhofe
205 Russell Senate Office Building
Washington, DC 20510
(202) 224-4721 | Main
(202) 228-0380 | Fax

JAMES M. INHOFE OKLAHOMA

WASHINGTON OFFICE 205 Fluctical Senate Office Building Washington, DC 20510-3803 (207) 224-4721

TULSA OFFICE 1924 South Utica, Suite 530 Tulsa, OK 74104 (918) 748-5111

OKLAHOMA CITY OFFICE 1900 N.W. Expressiver, Surt. 1216 OKLAHOMA CITY, OK 73118 (405) 508-4381

United States Senate

WASHINGTON, DC 20510-3603

COMMITTEES: ARMED SERVICES

ENVIRONMENT AND PUBLIC WORKS

COMMERCE, SCIENCE AND TRANSPORTATION

SMALL BUSINESS AND ENTREPRENEURSHIP

April 27, 2017

Scott Pruitt Administrator Environmental Protection Agency 1200 Pennsylvania Avenue, NW Office of the Administrator, 1101A Washington, DC 20460

Dear Administrator Pruitt:

I am writing to request that the Environmental Protection Agency (EPA) delay implementation of new requirements on Continental Carbon Company and Cabot Corps carbon black production facilities.

More than 300 people work for Continental Carbon at its facilities in Oklahoma, Alabama, and Texas. Continental Carbon is a crucial part of these local economies. In small towns like Ponca City, Continental Carbon is one of our largest employers, providing good, high paying jobs. All told, Continental conservatively invests approximately \$140 million in economic value in American communities every year.

Cabot employs 1500 people across Oklahoma, Louisiana and Texas. Cabot's investment in local communities is \$360 million annually in communities form Pryor, Oklahoma to Ville Platte, Louisiana. These are very high paying jobs with an average annual salary of \$70,000, which is an income levels not easily replicated in these communities.

During the previous administration, EPA implemented a national enforcement initiative to control emissions from carbon black manufacturers. It is my understanding that EPA has investigated and issued notices of violation under the Clean Air Act to all 15 of the carbon black plants in the United States, but has only reached settlements with Continental Carbon and one other company that collectively operate six of those 15 plants. I am concerned that EPA's selective enforcement is creating an unfair marketplace.

The U.S. carbon black industry has only five competitors who operate the 15 plants in Oklahoma, Texas, Alabama, Louisiana and Kansas. In 2014, Continental Carbon and Cabot each chose to resolve the EPA's notices by entering federal court consent decrees, agreeing to invest hundreds of millions of dollars to install stringent new controls at their plants in order to reduce emissions of air pollutants and spend an additional tens of millions in operating costs every year.

Continental Carbon and Cabot have each already made substantial capital investments as required by the settlements. Each is almost finished installing controls at one of their respective

plants, and projects are already well underway at their four remaining plants to meet the September 2018 and June 2021 deadlines imposed by the settlements. The companies are advancing these projects to meet the deadlines, but if the current schedules are not amended, they could be forced to shut down. The EPA will be running these two companies – with the cleanest manufacturing plants in the business – out of business. This cannot be the EPA's goal.

The actions of the previous Administration have created an uneven playing field. This is untenable in a highly competitive industry where a small change in price of 1 to 2 cents/pound can make the difference in retaining or losing business. While I know you cannot rewrite the complicated history of this issue, in your new capacity there are actions you can take to address the situation.

A positive first step would be for EPA to ask the courts to stay immediately the compliance deadlines contained in Continental Carbon and Cabot Corp's consent decrees. This would provide these companies with immediate relief and allow EPA time to determine what rules all of these facilities will abide by, not just a few of them.

I appreciate your consideration and look forward to your prompt response.

a-Unife

Sincerely,

James M. Inhofe United States Senator

ED_002110_00045577-00002

Stephen Aaron [saaron@mercuryllc.com] From:

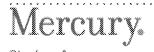
5/25/2017 8:59:31 PM Sent:

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: Cabot Follow-Up

Trump Hotel bar?



Stephen Aaron Senior Vice President 300 Tingey Street SE | Suite 202 Washington, DC | 20003 www.mercuryllc.com

On May 25, 2017, at 4:54 PM, Gunasekara, Mandy < Gunasekara. Mandy @epa.gov > wrote:

I'm free tomorrow afternoon – 2 pm. Meet you at the Trump Hotel Starbucks?

From: Stephen Aaron [mailto:saaron@mercuryllc.com]

Sent: Thursday, May 25, 2017 3:59 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>

Subject: Cabot Follow-Up

Mandy,

Would you have a few minutes for me to call or come by tomorrow and touch base quickly on the carbon black initiative?

Thanks

Stephen

Stephen Aaron Senior Vice President 300 Tingey Street SE | Suite 202 Washington, DC | 20003

www.mercuryllc.com

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From: The White House [noreply@whitehouse.gov]

Sent: 5/4/2017 9:27:45 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RSVP Confirmation

THE WHITE HOUSE

WASHINGTON

Dear Amanda,

Thank you for submitting your RSVP. We have received your information. Please reach out to your point of contact with any questions.

Sincerely, The White House

The White House • 1600 Pennsylvania Avenue, N.W. • Washington, D.C. 20500 • 202-456-1111

From: Gunasekara, Surya [Surya@mail.house.gov]

Sent: 5/8/2017 7:50:18 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Fwd: Convicted: How Climate Alarmism Harms the World's Poor

Surya G. Gunasekara Chief of Staff Congressman Renacci (OH-16)

Sent from my iPhone

Begin forwarded message:

From: John Hilboldt < mailingsls@heritage.org >

Date: May 8, 2017 at 3:06:40 PM EDT

To: < surya@mail.house.gov>

Subject: Convicted: How Climate Alarmism Harms the World's Poor

Reply-To: < <u>mailingsls@heritage.org</u>>



Co-Hosted by The Cornwall Alliance for the Stewardship of Creation

Convicted

How Climate Alarmism Harms the World's Poor

The Cornwall Alliance for the Stewardship of Creation presents its latest documentary, Convicted: How Climate Alarmism Harms the World's Poor (working title). As the sequel to Where the Grass is Greener: Biblical Stewardship vs. Climate Alarmism, Convicted delves into the deadly impacts of climate alarmism on people in developing countries, and what Biblical Stewardship requires of us: "To seek justice, love mercy, and walk humbly with our God."

Learn why top experts risk their jobs, funding, and public reputations to oppose the politicization of science and the use of scientific theories to push social, economic, and political agendas. The science is not settled, watch Convicted: How Climate Alarmism Harms the World's Poor to know more.

View the trailer at https://vimeo.com/216242322

Co-Hosted by

E. Calvin Beisner, Ph.D.

Founder and National Spokesman, The Cornwall Alliance for the Stewardship of Creation

Becky Norton Dunlop

Ronald Reagan Distinguished Fellow, The Heritage Foundation

Wednesday, May 17, 2017 at 5:00 p.m.

The Heritage Foundation's Allison Auditorium



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From: Brian Diffell [diffell@wtppgroup.com]

Sent: 4/26/2017 4:56:55 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: Hey

ok!

Sent from my iPhone

> On Apr 26, 2017, at 12:56 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:
> Finishing up call- be down in a few
> Sent from my iPhone
> On Apr 26, 2017, at 12:52 PM, Brian Diffell <diffell@wtppgroup.com> wrote:
>> We are here in the front. Cleared security.
>> Sent from my iPhone

From: Stephanie Meadows [Meadows@api.org]

Sent: 5/17/2017 12:38:15 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Automatic reply: Invitation to Join API Committee Meeting on May 16, 2017 -- BUILDING ACCESS INFORMATION

I will be out of the office 5/17- 5/18, but will be checking email. Please contact Francis Weaver (weaverf@api.org) if you need immediate assistance. Stephanie

From: Sasha Forsen, Green Plains Inc. [Sasha.Forsen@gpreinc.com]

Sent: 5/18/2017 4:12:12 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Thank You

Hi Mandy,

It was great seeing you this week! Thank you so much to you and Administrator Pruitt for giving us the opportunity to discuss issues and opportunities facing our industry today. If we can be a resource to you, please don't hesitate to reach out. As I'm sure you could tell, Todd has a unique perspective due to his experience as a commodity trader and his success in building our company from one plant to 17, with many other businesses along the ag and energy value chains.

In addition, please keep us updated on a good time for Administrator Pruitt to come out to our Shenandoah, Iowa location. We very much would appreciate the opportunity to show him our operations.

Thanks again and have a great rest of your week!

Regards,

Sasha Forsen | Public Relations Manager

phone: 402.315.1670 | email: Sasha.Forsen@gpreinc.com

Green Plains Inc.

1811 Aksarben Drive | Omaha, NE 68106

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From: Michael Stafford [MStafford@ajw-inc.com]

Sent: 4/28/2017 3:14:14 PM

To: Hupp, Sydney [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=d50089ff1a5b4c83baa0160afe2c33cb-Hupp, Sydne]; Gunasekara, Mandy

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Hupp, Millan [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=92cac7b684b64f90953b753a01bee0d5-Hupp, Milla]; Woodward, Cheryl

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=7a0d6a3af92640248638ca24fe87a777-Woodward, Cheryl]; Haley Armstrong

[harmstrong@icac.com]

Subject: RE: Question on ICAC's Meeting with Administrator Pruitt on May 4

Attachments: ATT00001.txt

Sydney and Mandy:

Thanks much for your quick follow-up. We should be able to share with you a list of May 4th anticipated ICAC participants and company affiliation by no later than COB Tuesday (2st). We are currently working on substantive slides, which we can use as handouts for EPA staff. Also, we will plan to have tent cards for all our folks so it will be easier for the Administrator or staff to associate ICAC members/companies with particular remarks.

I look forward to following up with Millan and Cheryl accordingly and I urge all folks on your end to alert me, or Haley Armstrong who I've copied above, on how we can make this effort as user friendly as possible for your staff between now and the May 5th meeting.

Michael

Michael Stafford Partner AJW, Inc. 202-296-8086/Ext. 104 (Office) 202-299-4577 (Cell)



AJW's work focuses on enhancing market opportunities and removing market barriers for innovative technologies.

From: Hupp, Sydney [mailto:hupp.sydney@epa.gov]

Sent: Friday, April 28, 2017 9:43 AM

To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Michael Stafford <MStafford@ajw-inc.com>

Cc: Hupp, Millan hupp.millan@epa.gov>; Woodward, Cheryl.com/Cc: Hupp, Millan hupp.millan@epa.gov>; Woodward, Cheryl.com/Cc. Hupp, Millan hupp.millan@epa.gov>; Woodward, Cheryl.com/

Subject: RE: Question on ICAC's Meeting with Administrator Pruitt on May 4

Thank you Mandy! Michael, I am looping in Millan who handles advance for all events and Cheryl who handles logistics for all visitors. As it stands now Cheryl has a room with tables set up for a round table with microphones for discussion. It can accommodate about 50 people I believe. She will need a list of attendees to give to security before the day of. I will let her and Millan sort out the rest of the details with you. We are looking forward to having you all here!

Thanks!

Sydney Hupp

Executive Scheduler Office of the Adminsitrator 202.816.1659 (c)

From: Gunasekara, Mandy

Sent: Friday, April 28, 2017 9:38 AM

To: Michael Stafford < MStafford@ajw-inc.com Cc: Hupp, Sydney hupp.sydney@epa.gov

Subject: RE: Question on ICAC's Meeting with Administrator Pruitt on May 4

Hi Michael,

We are looking forward to next week's meeting. I've cc'd Sydney who can answer your questions. We do have a draft agenda and list of all ICAC members (which I believe came from you). It would be helpful to have a list of the companies that will be in attendance. On questions, the Administrator tends to ask questions all throughout the presentations, but it will be good to set aside time for Q&A.

I'm not sure on our technical capabilities, so I'll let Sydney fill in on that.

Best, Mandy

From: Michael Stafford [mailto:MStafford@ajw-inc.com]

Sent: Friday, April 28, 2017 9:21 AM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Subject: Question on ICAC's Meeting with Administrator Pruitt on May 4

Mandy:

As I'm sure you know, next Thursday (May 4^{th}) we are bringing the Institute of Clean Air Companies down to meet with Administrator Pruitt. This is the morning after you speak to the group on May 3. One of the primary purposes of the May 4^{th} meeting with the Administrator is for folks on our side of the table to provide a substantive overview and update on air pollution measurement and control technologies. Chris Hessler of our firm initially worked with Ryan to schedule this briefing and subsequently had a brief call with Sydney Hupp to discuss the need to move the briefing time on May 4^{th} from 9:00-10:30 AM up to 8:00-9:30 AM, which we accommodated.

Since we're less than a week out and we'll be jammed up on May 2-3 with the first two days of the ICAC Washington Summit, I'm hoping to connect up with the appropriate staff in your shop to talk thru the logistics of the May 4th briefing session: "Will you need individual and/or company names in advance, will we be able to use slides, overall format, desired level of Q&A, etc." We certainly want the Administrator and any EPA staff in the room to find the meeting of

significant value and it would be helpful in achieving that intent if I could connect briefly by phone with someone in your shop to compare notes.

FYI—I left a VM at 8:30 this morning for Sydney. Am sending this your way in case you could pass this along to Sydney or whomever I need to connect up with to make sure ICAC makes this meeting as substantively valuable as possible for your shop.

Best regards and very much look forward to seeing you on May 3rd.

Michael

Michael Stafford Partner AJW, Inc. 202-296-8086/Ext. 104 (Office) 202-299-4577 (Cell)



AJW's work focuses on enhancing market opportunities and removing market barriers for innovative technologies.

From: Gunasekara, Surya [Surya@mail.house.gov]

Sent: 5/18/2017 4:11:29 PM

To: Chuck Cunningham [chuckc@visi.net]

CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: CAFE Standards

Do you have a one-pager on what you want to see reformed? That would probably be more helpful.

Surya G. Gunasekara Chief of Staff Congressman Renacci (OH-16)

Sent from my iPhone

On May 18, 2017, at 12:08 PM, Chuck Cunningham <chuckc@visi.net> wrote:

Surya, thanks for this introduction. Great seeing you last night.

Mandy, I met Samantha when we met with General Pruitt and continue to communicate with her. I do not know and have not met Brittany Bolen.

Below are some recent articles and op-eds on fuel economy standards that should be informative and helpful:

Automakers hope to reach US deal on 2025 vehicle emissions

Time to take fuel-efficiency mandates in for a checkup

SAFE Welcomes Review of Fuel Economy Standards, Urges Compromise Incorporating New Technologies and Business Models (SAFE news release)

Make energy security top goal (Detroit News)

<u>Fred Smith, retired military warn Washington about risks of foreign oil dependence</u> (*Memphis Business Journal*)

<u>Industry and environmentalists can both win on fuel economy.</u> Here's how (Forbes) Trump Plans to Review Fuel Economy Standards, and Maybe That's a Good Thing (Greentech Media) In Michigan Visit, President Trump Reopens Review of Fuel-Economy Standards (Car and Driver) Trump takes steps toward undoing Obama's auto emissions limits (Politico) Chuck Charles H. Cunningham ChuckC@visi.net Senior Vice President for Government Relations and External Affairs Securing America's Future Energy (SAFE) 1111 Nineteenth Street, N.W., Suite 406 Washington, D.C. 20036-3627 (202) 461-2369 (202) 461-2379 (FAX) ----- Original message -----From: "Gunasekara, Mandy" < Gunasekara. Mandy@epa.gov> Date: 5/18/17 9:57 AM (GMT-05:00) To: "Gunasekara, Surya" <Surya@mail.house.gov> Cc: Chuck Cunningham <chuckc@visi.net> Subject: Re: CAFE Standards Thanks, Surya. Chuck, our Policy Office (Samantha Dravis, Brittany Bolen) have taken the lead on Cafe issues. I'm happy to connect but can you provide a bit more specificity? Thanks, Mandy Sent from my iPhone

On May 18, 2017, at 9:19 AM, Gunasekara, Surya <<u>Surya@mail.house.gov</u>> wrote:

Hey Chuck,

Good seeing you last night.

As promised, I have connected you with my wife Mandy. She can direct you to the appropriate contact depending on your specific requests.

Surya

Surya G. Gunasekara Chief of Staff Congressman Jim Renacci (16th-OH) 328 Cannon House Office Building Washington, DC 20515

O: (202) 225-3876 F: (202) 225-3059

<image001.png><image002.png><image003.png><image004.jpg>

<image005.jpg> Click here to receive Jims's weekly email updates

Spam
Phish/Fraud
Not spam
Forget previous vote

Message

From: Cheatham-Strickland, Latonia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E0153E074B9640F1B6AA32CFDA4F4BF9-STRICKLAND,]

Sent: 4/25/2017 8:08:29 PM

To: Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]; Kennedy, Brian (Flake)

[Brian Kennedy@flake.senate.gov]

CC: Timothy Franquist Jr. [FranquistJr.Timothy@azdeq.gov]; Towles, Sarah (Flake) [Sarah_Towles@flake.senate.gov];

Gunssekara.mandy@epa.gov; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Exceptional Events

Will do. Invite will follow shortly

Best Regards,

Latonia

From: Bennett, Tate

Sent: Tuesday, April 25, 2017 1:03 PM

To: Kennedy, Brian (Flake) < Brian_Kennedy@flake.senate.gov>

Cc: Timothy Franquist Jr. <FranquistJr.Timothy@azdeq.gov>; Towles, Sarah (Flake) <Sarah_Towles@flake.senate.gov>;

Gunssekara.mandy@epa.gov; Cheatham-Strickland, Latonia < Cheatham-Strickland.Latonia@epa.gov>

Subject: Re: Exceptional Events

Latonia, do you mind setting up/ sending around a call in for us on Friday at 2 PM? Thanks!

On Apr 25, 2017, at 12:59 PM, Kennedy, Brian (Flake) < Brian Kennedy@flake.senate.gov > wrote:

Hi Mandy and Tate,

Can we include Tim on the call Friday?

Brian

From: Timothy Franquist Jr. [mailto:FranquistIr.Timothy@azdeg.gov]

Sent: Monday, April 24, 2017 8:39 PM

To: Kennedy, Brian (Flake) < Brian Kennedy@flake.senate.gov>

Subject: RE: Exceptional Events

Brian,

Thank you for reaching out to me on this issue! The Ozone hearing in DC was postponed, so originally I would have been heading back for that, but this is a big ticket item and I could probably make arrangements to come to DC or I'm happy to call in as well.

Tim

From: Kennedy, Brian (Flake) [mailto:Brian Kennedy@flake.senate.gov]

Sent: Monday, April 24, 2017 1:33 PM

To: Timothy Franquist Jr. <FranquistJr. Timothy@azdeq.gov>

Subject: Exceptional Events

Hi Tim,

EPA has reached out to us about the CLEER Act and a meeting on it. I would love to have ADEQ there for some scientific expertise. Are you planning to be in DC anytime in the next month?

Brian

Message

From: Myron Ebell [Myron.Ebell@cei.org]

Sent: 5/8/2017 2:17:12 PM

To: Myron Ebell [Myron.Ebell@cei.org]

Subject: Cooler Heads Coalition alert: Joint Letter to President Trump on the Paris Climate Treaty

Attachments: Letter to President Trump on Paris Climate Treaty from CEI, AEA, and 39 organizations, 8 May 2017.pdf

Please find the PDF of our joint letter attached.

Here is the link: https://cei.org/content/forty-free-market-groups-urge-trump-withdraw-paris-climate-agreement.

Here is the link to our press release: https://cei.org/content/cei-and-aea-lead-coalition-forty-free-market-groups-urging-trump-withdraw-paris-climate.

Also here is the link to an AP story, which shows what we are up against: http://www.timesofisrael.com/ivanka-trump-to-review-climate-change-as-us-mulls-paris-pullout/.

Myron Ebell
Director, Center for Energy and Environment
Competitive Enterprise Institute
1310 L Street, N. W., Seventh Floor
Washington, DC 20005, USA
Tel direct: (202) 331-2256

Tel mobile: (202) 320-6685 E-mail: Myron.Ebell@cei.org

Stop continental drift!























May 8, 2017

The Honorable Donald J. Trump President of the United States The White House 1600 Pennsylvania Ave., N.W. Washington, D.C. 20500

Dear Mr. President,

We, the undersigned, write in enthusiastic support of your campaign commitments to withdraw fully from the Paris Climate Treaty and to stop all taxpayer funding of UN global warming programs. We were heartened by the comments you made at your 100-day rally in Harrisburg and agree that the treaty is not in the interest of the American people and the U. S. should therefore not be a party to it.

Withdrawing from the Paris Climate Treaty is an integral part of your energy agenda. The Obama administration's Nationally Determined Contribution (or NDC) to the Paris Climate Treaty commits the United States to take actions that will reduce greenhouse gas emissions by 17% below 2005 levels by 2020 and by 26% to 28% below 2005 levels by 2025. Paris then requires a more ambitious NDC every five years in perpetuity.

The NDC cites specific policies undertaken by the Obama administration as part of the NDC. These include: the greenhouse gas emissions rules for existing (the "Clean Power" Plan) and new power plants; Corporate Average Fuel Economy (CAFE) standards for vehicles; methane emissions rules for the oil and gas sector and for landfills; and energy efficiency and conservation standards for buildings and appliances.

Environmental pressure groups and several state attorneys general have begun to prepare lawsuits in federal court to block withdrawal of the "Clean Power" Plan and other greenhouse gas rules. One argument that they have already put forward is that these rules cannot be withdrawn because they are part of our international commitment under the Paris Climate Treaty. Failing to withdraw from Paris thus exposes key parts of your deregulatory energy agenda to unnecessary legal risk. The AGs revealed in a recruiting letter that they also plan other lawsuits "ensuring that the promises made in Paris become reality."

Some officials in your administration are relying on recent statements from former Obama administration officials that the U. S. can withdraw its NDC and submit a new NDC that makes far less ambitious commitments to reduce greenhouse gas emissions. The clear language of Article 4 of the Paris Climate Treaty contradicts that claim. Section 11 states: "A Party may at any time adjust



its existing nationally determined contribution with a view to enhancing its level of ambition" (emphasis added).

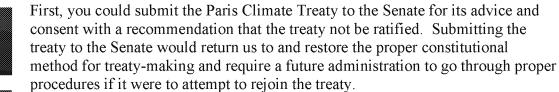


Even if the U. S. were to be cleared by UN officials to submit a less ambitious NDC, this is not the end of the threats posed by the Paris Climate Treaty to your pro-energy agenda and to the economic future of our country. Article 4 requires each party to submit a more ambitious NDC at least every five years in perpetuity. This commitment to reduce fossil fuel use every five years cannot be wished away by those who argue that the U. S. should keep a seat at the negotiating table in order to advocate for fossil fuels.



In urging you to keep your campaign commitment, we recognize that there are several options for you to withdraw the U.S. from Paris. Of the three options listed below, we think the first two are preferable to the third.







Second, you could withdraw from the underlying UN Framework Convention on Climate Change (UNFCCC). This action would also achieve your commitment to "stop all payments of the United States tax dollars to UN global warming programs," including the Green Climate Fund, which is a part of the UNFCCC.



Third, you could announce your intention to withdraw the U. S. from the Paris Climate Treaty according to the four-year schedule specified in the treaty and continue the process of repealing the regulations that the previous administration submitted as part of its NDC. This option is the least preferable because it runs the risk of legitimizing the Obama administration's false claim that the treaty is merely an executive agreement.



The undersigned organizations believe that withdrawing completely from Paris is a key part of your plan to protect U.S. energy producers and manufacturers from regulatory warfare not just for the next four years but also for decades to come. We will strongly support your decision to keep your campaign commitment to withdraw from the Paris Climate Treaty.

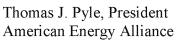


Sincerely,



Cornwall Alliance

> Myron Ebell, Director, Center for **Energy and Environment** Competitive Enterprise Institute



Joseph Bast, President The Heartland Institute



























Grover G. Norquist, President Americans for Tax Reform

Chrissy Harbin, Vice President of **External Affairs** Americans for Prosperity

Michael Needham, CEO Heritage Action for America

Michael Costigan, Senior Advisor, Strategic Outreach The Heritage Foundation

James L. Martin, Founder and Chairman 60 Plus Association

Craig Rucker, Executive Director Committee For A Constructive **Tomorrow**

David Ridenour, President National Center for Public Policy Research

Thomas Schatz, President Citizens Against Government Waste

Craig Richardson, President Energy and Environment Legal Institute

Tom DeWeese, President American Policy Center

Richard Manning, President Americans for Limited Government

Phil Kerpen, President American Commitment

David Williams, President **Taxpayers Protection Alliance**

Mario H. Lopez, President Hispanic Leadership Fund

David Bozell, President For America

Kenneth Haapala, President Science and Environmental Policy Project

Craig D. Idso, Chairman Center for the Study of Carbon Dioxide and Global Change

William Happer, President The CO₂ Coalition

E. Calvin Beisner, Founder and National Spokesman Cornwall Alliance for the Stewardship of Creation

John Droz, Jr., Founder Alliance for Wise Energy Decisions

Timothy Lee, Senior Vice President of Legal and Public Affairs Center for Individual Freedom

Peter J. Thomas, Chairman Americans for Constitutional Liberty

Ed Martin, President Eagle Forum Education and Legal Defense Fund

Amy Oliver Cooke, Executive Vice President Independence Institute (CO)

David T. Stevenson, Director, Center for Energy Competitiveness Caesar Rodney Institute (DE)

Paul Gessing, President Rio Grande Foundation

Kory Swanson, President and CEO John Locke Foundation

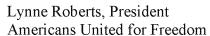
Francis De Luca, President Civitas Institute

Forest Thigpen, President Mississippi Center for Public Policy

Eldon Alexander, President Faith and Freedom Foundation



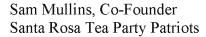




Rich Johns, President Liberty Tree Alliance

Aileen Milton, President The Villages Tea Party

Debbie Gunnoe, President Navarre Patriots



Hon. Mike Hill, Founder Northwest Florida Tea Party

Stephani Scruggs Bowen, COO Coalition for a Strong America

Alan Moran, Director Australian Environment Foundation



Message

From: Andrew Lund [alund@cj-lake.com]

Sent: 5/8/2017 6:16:47 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Thank You Letter from Valley Air
Attachments: Administrator Pruitt Thank You.pdf

Good afternoon Mandy,

I think Lynn may have sent this to you late last week but just in case here is a copy. Thanks again to you and the Administrator for the time. The letter indicates some additional issues that we would have discussed in the meeting. Please let me know if you have any questions.

Sincerely,

Andrew Lund CJ Lake, LLC 525 9th Street, NW Suite 800 Washington, DC 20004 (p) 202 465-3000 (f) 202 347-3664 alund@cj-lake.com





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Southern Region Office 34945 Flyover Court Bakersfield, CA 93308-9725 (661) 392-5500 • FAX (661) 392-5585

May 3, 2017

The Honorable Scott Pruitt U.S. Environmental Protection Agency Ariel Rios Building 1200 Pennsylvania Avenue, N.W. Washington, DC 20460

Dear Administrator Pruitt:

I would like to express my immense gratitude for taking time out of your busy schedule to meet with me and members of the Valley Air District Governing Board on March 21, 2017. We were genuinely heartened by your interest in our issues and commitment to cooperative federalism.

The purpose of this letter is to provide you with an update and express our commitment to keep you apprised of progress as we continue to work with EPA to complete a path forward in addressing the challenges that our region faces in fulfilling the latest mandates under the federal Clean Air Act.

As a first step, we have scheduled a meeting with Region 9 staff on May 10, 2017 to discuss issues and identify solutions with the goal of developing federally approvable State Implementation Plans for multiple PM2.5 standards. It is our hope that this will be the beginning of a more cooperative engagement with Region 9 that builds on effective clean air measures that our region has already implemented and continues efforts for further reductions in air pollution and significant improvements in public health.

As we discussed in our meeting, Region 9's inaction in 2016 on the District's Serious attainment plan and extension request for the 1997 PM2.5 Standard retroactively imposed an attainment deadline of December 31, 2015 on the Valley, triggering a requirement for a plan demonstrating 5% per year reduction in emissions. We believe the 5% plan that the District intends to submit to EPA later this year satisfies all applicable requirements and should be approved by EPA. This will enable our region to focus our efforts on meeting the more challenging and more health protective 2006 and 2012 PM2.5 standards.

www.vaileyair.org

Meeting these latest PM2.5 standards requires enormous additional reductions in emissions in relatively short timeframes. The attainment dates for these standards are as follows:

2019 for the 2006 PM2.5 standard (24-hour 35 μg/m³)

- 2021 for the 2012 PM2.5 standard (annual 12 μg/m³, Moderate classification)
- 2025 for the 2012 PM2.5 standard (annual 12 μg/m³, Serious classification)

The District is currently engaged in a robust public participation process to identify all feasible measures. We hope that working with EPA we can find means to satisfy the applicable mandates in a cost-effective fashion while avoiding economically devastating federal sanctions on Valley residents and businesses.

Again we thank you for your attention to this matter and look forward to working with you and your staff on these critically important issues.

Sincerely

Seyed Sadredin

Executive Director/APCO

Message

From: Krenik, Edward [edward.krenik@bracewell.com]

Sent: 5/11/2017 3:41:19 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Holmstead, Jeff

[jeff.holmstead@bracewell.com]

Subject: RE: CPSC

Attachments: Signed - Letter - CPSC and Portable Generators.pdf

Thank you. Can you also send to ABuerkle@cpsc.gov She would like to get it from EPA address.

Ed

EDWARD KRENIK

Partner

edward.krenik@policyres.com

T: +1.202.828.5877 | F: +1.800.404.3970

BRACEWELL LLP

2001 M Street NW, Suite 900 | Washington, D.C. | 20036-3310 policyres.com | profile | download v-card

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From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Wednesday, May 10, 2017 6:26 PM **To:** Krenik, Edward; Holmstead, Jeff

Subject: CPSC

FYI - See attached.

Message

From: Larry Schafer [Ischafer@playmakerstrategies.com]

Sent: 5/11/2017 10:05:08 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; 'Larry Schafer' [lschafer@playmakerstrategies.com]; Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]

CC: Inge, Carolyn [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=7f763e42702a4f468cdf42323ee94520-Cinge]; Kime, Robin

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=7ef7b76087a6475b80fc984ac2dd4497-RKime]

Subject: RE: Biodiesel Meeting Request for week of May 15 --- Biodiesel meeting follow up!

I am available too ... you pick the time ...

Thanks ...



Larry Schafer Principal Playmaker Strategies, LLC 750 Ninth St., NW, Suite 650 Washington, DC 20001

Phone: (202)997-8072

Email: Lschafer@PlaymakerSt

Email: <u>Lschafer@PlaymakerStrategies.com</u> **Www:** www.playmakerstrategies.com

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Thursday, May 11, 2017 5:59 PM **To:** Larry Schafer; Bolen, Brittany **Cc:** Inge, Carolyn; Kime, Robin

Subject: RE: Biodiesel Meeting Request for week of May 15 --- Biodiesel meeting follow up!

Hi Larry,

Apologize for the delayed response. Robin or Carolyn, can you help set up a call for Brittany and I this Friday (tomorrow). I'm flexible mid-afternoon.

Best, Mandy

From: Larry Schafer [mailto:lschafer@playmakerstrategies.com]

Sent: Thursday, May 11, 2017 4:49 PM

To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>

Cc: Inge, Carolyn < ! Kime, Robin < Kime, Robin@epa.gov>

Subject: Fwd: Biodiesel Meeting Request for week of May 15 --- Biodiesel meeting follow up!

Mandy and Brittany

Hope you are well

Can we discuss how to make this meeting happen? It's really important to our industry that we have a chance to continue our dialogue with you about the role of biodiesel in the RFS.

Perhaps a call on Friday?

Thank you.

Larry Schafer Playmaker Strategies 202.997.8072

Begin forwarded message:

From: "Larry Schafer" < lschafer@playmakerstrategies.com

Date: May 11, 2017 at 1:07:56 PM EDT **To:** "'Kime, Robin'" < Kime.Robin@epa.gov **Cc:** "'Inge, Carolyn@epa.gov

Subject: RE: Biodiesel Meeting Request for week of May 15 --- Biodiesel meeting follow up!

Robin and Carolyn:

Thank you.

This meeting is extremely important to our industry. We know that your team is extremely busy. Is Samantha not available for the entire week? If that is the case, then is there a possibility we can meet with Brittany and Mandy?

On our end we have folks that are scheduling flight arrangements—so we need a couple of days of notice.

Can you give me any insights as to when we might be able to pull something together?

Again, thank you for working with us on this.



Larry Schafer
Principal
Playmaker Strategies, LLC
750 Ninth St., NW, Suite 650
Washington, DC 20001

Phone: (202)997-8072

Email: <u>Lschafer@PlaymakerStrategies.com</u> Www: <u>www.playmakerstrategies.com</u>

From: Kime, Robin [mailto:Kime.Robin@epa.gov]

Sent: Thursday, May 11, 2017 12:52 PM **To:** <u>lschafer@playmakerstrategies.com</u>

Cc: Inge, Carolyn

Subject: Biodiesel Meeting Request for week of May 15 --- Biodiesel meeting follow up!

Good afternoon Mr. Schafer,

I hope you are doing well. I am sorry but Samantha's calendar is very much in flux. We are not able to confirm a meeting with Samantha next week. We will be in touch with you as soon as that changes.

Thanks very much for your time and patience.

Robin

From: Larry Schafer [mailto:lschafer@playmakerstrategies.com]

Sent: Thursday, May 11, 2017 12:05 PM **To:** Inge, Carolyn < Inge, Carolyn@epa.gov>

Subject: RE: Biodiesel Meeting Request for week of May 15 --- Biodiesel meeting follow

up!

Carolyn,

Is it okay for me to place this meeting as "confirmed"? 11:00 to 11:30 am on Wednesday, May 17th?

Do you need anything else from me?

Attendees:

Gene Gebolys, CEO World Energy Larry Schafer, CEO Playmaker Strategies Anne Steckel, Vice President of Federal Affairs, National Biodiesel Board.

Thank you.



Larry Schafer Principal Playmaker Strategies, LLC 750 Ninth St., NW, Suite 650 Washington, DC 20001 Phone: (202)997-8072

Email: <u>Lschafer@PlaymakerStrategies.com</u> Www: www.playmakerstrategies.com

From: Larry Schafer [mailto:lschafer@playmakerstrategies.com]

Sent: Wednesday, May 10, 2017 12:15 PM

To: 'Inge, Carolyn'

Subject: RE: Biodiesel Meeting Request for week of May 15 --- Biodiesel

meeting follow up!

Would you be kind enough to book that time slot for our meeting?

Attendees:

Gene Gebolys, CEO World Energy Larry Schafer, CEO Playmaker Strategies Anne Steckel, Vice President of Federal Affairs, National Biodiesel Board.

Thank you.



Larry Schafer Principal Playmaker Strategies, LLC 750 Ninth St., NW, Suite 650 Washington, DC 20001

Phone: (202)997-8072

Email: Lschafer@PlaymakerStrategies.com Www: www.playmakerstrategies.com

AND THE PART OF TH

From: Inge, Carolyn [mailto:Inge.Carolyn@epa.gov]

Sent: Wednesday, May 10, 2017 12:13 PM

To: Larry Schafer

Subject: RE: Biodiesel Meeting Request for week of May 15 --- Biodiesel

meeting follow up!

Yes

Carolyn Inge
U.S Environmental Protection Agency
Office of Policy
1301 Constitution Avenue NW
Washington, DC 20004
(202) 566-2845-Work

From: Larry Schafer [mailto:lschafer@playmakerstrategies.com]

Sent: Wednesday, May 10, 2017 11:37 AM **To:** Inge, Carolyn < lnge.Carolyn@epa.gov

Subject: RE: Biodiesel Meeting Request for week of May 15 --- Biodiesel

meeting follow up!

Thanks Carolyn,

Do Samantha and Brittany still have availability from 11:00 to 11:30 am on Wednesday, May 17th?



Larry Schafer
Principal
Playmaker Strategies, LLC
750 Ninth St., NW, Suite 650
Washington, DC 20001
Phone: (202)997-8072

Email: <u>Lschafer@PlaymakerStrategies.com</u>
Www: <u>www.playmakerstrategies.com</u>

From: Inge, Carolyn [mailto:Inge.Carolyn@epa.gov]

Sent: Tuesday, May 09, 2017 4:33 PM

To: Larry Schafer

Subject: RE: Biodiesel Meeting Request for week of May 15 ---

Biodiesel meeting follow up!

Importance: High

Dates for May 15 from Samantha & Brittany calendar half hour meeting.

May 15

2:00 - 2:30 3:00 - 3:30

May 16

2:00- 2:30 4:00 -4:30

5:00-5:30

May 17

11:00 11:30

1:00 1:30

2:00 2:30

5:00 - 5:30

May 18

2:00 -2:30

3:00-3:30

4:00 -4:30

5:00-5:30

May 19

2:30-3:00

3:30-4:00

4:30-5:00

Carolyn Inge
US Environmental Protection Agency
Office of Policy
1301 Constitution Avenue NW
Washington, DC 20004
(202) 566-2845-Work

From: Larry Schafer [mailto:lschafer@playmakerstrategies.com]

Sent: Tuesday, May 09, 2017 3:40 PM **To:** Inge, Carolyn < Inge, Carolyn@epa.gov>

Subject: FW: Biodiesel Meeting Request for week of May 15 ---

Biodiesel meeting follow up!

Carolyn,

Can you help me work to get this meeting scheduled ... ?

I really appreciate it. Thank you.

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Larry Schafer Principal Playmaker Strategies, LLC 750 Ninth St., NW, Suite 650 Washington, DC 20001

Phone: (202)997-8072

Email: Lschafer@PlaymakerStrategies.com Www: www.playmakerstrategies.com

From: Larry Schafer [mailto:lschafer@playmakerstrategies.com]

Sent: Tuesday, May 09, 2017 3:24 PM

To: 'Bolen, Brittany'; 'Gunasekara, Mandy'; Dravis, Samantha

Cc: Kime, Robin; Inge, Carolyn

Subject: Biodiesel Meeting Request for week of May 15 ---

Biodiesel meeting follow up!

Mandy, Brittany and Samantha:

Since we last met in early April, -- <u>and on which we agreed to</u> <u>follow up with you with additional information from our</u> <u>industry</u> -- we have updated information and data that is relevant to helping <u>your team</u> <u>set the 2018 RVO for Advanced</u> <u>Biofuels.</u>

The 2018 RFS RVO rulemaking is one of the first rules coming from this EPA and each year this rule is an important one to all of the nation's fuel related stakeholders.

We want to be respectful of your time but also want to make sure you have the clear, concise, and accurate information you need.

We think it is necessary for us to come by your office to provide supporting information and context about where we are headed as an industry – the available domestic supply of Advanced Biofuels far exceeds 2017's 4.28B RIN gallon requirement and the Biomass Based Diesel's available supply far exceeds this year's 2.0B gallon requirement. Given that 2.6B gallons of biomass based diesel were supplied last year even as

an estimated 35% of America's domestic capacity sat idle, those facts appear abundantly self-evident. For 2018, the bare minimum of available supply without any straining of capacity whatsoever for Advanced Biofuels is 5.25B gallons and for 2019, for Biomass Based Diesel is 2.75B gallons.

Our meeting with your team from early April was refreshingly straight forward. You made clear that Administrator Pruitt recognizes RFS as the law of the land, that he intends to administer the law as written, and that your team recognizes the importance of providing clear and timely guidance to all related parties. We want to be helpful to your process and given the importance of this matter to our industry – we want to make sure the data gets to where it is needed.

Would you be kind enough to provide us with a couple of times for next week – that might be convenient for your team to meet? (Week of May 15th)

Our team consists of Gene Gebolys (CEO of World Energy), Scott Lewis (Executive VP of Biox-WEBB) and Jonathan Phillips (General Counsel of RBF, Port Neches) – representing over 500 million gallons of domestically produced biodiesel. We would also like to bring Anne Steckel, the VP of Federal Affairs with the National Biodiesel Board (NBB). (Gene Gebolys is chair of NBB's working group on the RVO process).

Thank you.

Larry Schafer
Principal
Playmaker Strategies, LLC
750 Ninth St., NW, Suite 650
Washington, DC 20001

Phone: (202)997-8072

Email: <u>Lschafer@PlaymakerStrategies.com</u>
Www: www.playmakerstrategies.com

----Original Message-----

From: Larry Schafer [mailto:lschafer@playmakerstrategies.com]

Sent: Monday, May 08, 2017 11:59 AM To: 'Bolen, Brittany'; 'Gunasekara, Mandy'

Cc: Kime, Robin

Subject: RE: Biodiesel meeting follow up

Mandy and Brittany,

I know you are busy. We really feel that it is urgent that we schedule a follow up meeting with you this week.

Do you have availability on Wednesday (10th) or Friday (12th)

I would like to bring back Gene Gebolys and have Anne Steckel from the National Biodiesel Board join us.

Thank you.

Larry Schafer
Principal
Playmaker Strategies, LLC
750 Ninth St., NW, Suite 650
Washington, DC 20001
Phone: (202)997-8072

Email: Lschafer@PlaymakerStrategies.com Www: www.playmakerstrategies.com

----Original Message-----

From: Larry Schafer [mailto:lschafer@playmakerstrategies.com]

Sent: Thursday, April 27, 2017 2:53 PM To: 'Bolen, Brittany'; 'Gunasekara, Mandy' Subject: RE: Biodiesel meeting follow up

Brittany and Mandy,

This is note is to provide a quick follow up to our meeting of two weeks ago as well as to our meeting with OTAQ staff yesterday.

Gene Gebolys and Jonathan Phillips, both of whom you met with, and a small group of biodiesel industry leaders met yesterday with Chris Grundler, Director of OTAQ, and his team, to discuss the upcoming 2018 RFS rulemaking. The purpose was to discuss the in-depth modeling prepared by the National Biodiesel Board's RVO Working Group, of which Gene is the cochair. This is a highly detailed data driven exercise in which our industry annually shares projections for available production capacity and provides back cast empirical data about the accuracy of our previous projections.

Our earlier meeting with both of you was refreshingly straight forward but yesterday's was less so. You made clear that Administrator Pruitt recognizes RFS as the law of the land, that he intends to administer the law as written, and that your team recognizes the importance of providing clear and timely guidance to all related parties. In contrast, our group left yesterday's meeting with the impression that that while the OTAQ team recognized EPA's obligation under the law to grow the Advanced Biofuel pool of the program, they felt they lacked any clear policy direction for doing so. For an industry that lives or dies on how these regulations are implemented, that was concerning.

EPA staff advised us yesterday that they understand that the available domestic supply of Advanced Biofuels far exceeds 2017's 4.28B RIN gallon requirement and that Biomass Based Diesel's available supply far exceeds this year's 2.1B gallon requirement. Given that 2.6B gallons of biomass based diesel were supplied last year even as an estimated 35% of America's domestic capacity sat idle, those facts appear abundantly self-evident. For 2018, the bare minimum of available supply without any straining of capacity whatsoever for Biomass Based Diesel is 2.75B gallons and for Advanced Biofuels is 5.25B gallons. Those numbers and the data to support them were shared yesterday with OTAQ. Yet, given the importance of this matter and the lack of clarity in yesterday's discussion we want to make sure the data gets to where it is needed.

The 2018 RFS RVO rulemaking is one of the first rules coming from this EPA and each year this rule is an important one to all of the nation's fuel related stakeholders. I want to be respectful of your time but also want to make sure you have the clear, concise, and accurate information you need. As such, I'd be happy to come by your office at your convenience to provide supporting information and context and / or to answer questions. Please let me know how I can best keep you efficiently informed.

Thank you.

Larry Schafer
Principal
Playmaker Strategies, LLC
750 Ninth St., NW, Suite 650
Washington, DC 20001

Phone: (202)997-8072

Email: Lschafer@PlaymakerStrategies.com Www: www.playmakerstrategies.com

```
From: Bolen, Brittany [mailto:bolen.brittany@epa.gov]
Sent: Wednesday, April 26, 2017 7:16 AM
To: Larry Schafer
Cc: Gunasekara, Mandy
Subject: Re: Biodiesel meeting follow up
Hi Larry - unfortunately, my schedule is packed with back-to-
back meetings today.
Best,
Brittany
> On Apr 25, 2017, at 6:31 PM, Larry Schafer
<lschafer@playmakerstrategies.com> wrote:
>
> Brittany
> Any chance we can stop by tomorrow?
> Larry Schafer
> Playmaker Strategies
> 202.997.8072
>
>> On Apr 25, 2017, at 3:33 PM, Larry Schafer
<lschafer@playmakerstrategies.com> wrote:
>>
>> Brittany and Mandy,
>>
>> Hope you are well.
>>
>> As Gene mentioned, he will be in DC tomorrow (4-26). Might
you have
>> a few minutes for Gene and me to stop by and update you
>> meeting with the staff at OTAQ and to update you on our
economic
>> analysis as it relates to the Advanced Biofuels program?
>>
>> We will keep it short.
>>
>> Thanks.
>>
>>
>>
>>
>> Larry Schafer
>> Principal
```

----Original Message----

>> Playmaker Strategies, LLC >> 750 Ninth St., NW, Suite 650 >> Washington, DC 20001 >> Phone: (202)997-8072 >> Email: Lschafer@PlaymakerStrategies.com >> Www: www.playmakerstrategies.com >> >> >> >> >> >> ----Original Message----->> From: Gene Gebolys [mailto:ggebolys@worldenergy.net] >> Sent: Thursday, April 20, 2017 5:55 PM >> To: bolen.brittany@epa.gov; Gunasekara.Mandy@epa.gov; Larry Schafer; >> 'Manning Feraci'; Slewis@bioxcorp.com; 'Jonathan Phillips >> (jphillips@rbfuels.com) ' >> Subject: Biodiesel meeting follow up >> >> Mandy and Brittany, >> >> Thanks for taking the time to meet with us last week. It was >> nice that we were forced out into the beautiful outdoors and that we >> were able to have a really good exchange. We left that meeting very >> encouraged about the new team at the helm at EPA. >> >> I mentioned then that we were in the final stages of running >> annual econometric analysis for the upcoming RVO's. That work is now >> complete and I'll be back in DC next Wednesday to share it with EPA >> and USDA career folks. If you would find it useful for Larry and me >> to come by for a short follow up visit, we'd be happy to do it. >> >> One way or the other we'd like to get the data in your hands. It >> shows that we have that we have more than adequate available capacity >> to fill an Advanced Biofuels RVO for 2018 of 5.25B and a >> Diesel RVO of 2.75B without substantially pressuring RIN values or commodity prices. >> >> If you are available for a few minutes on Wednesday we'd be happy to >> come back for part two of our initial visit. If not, I'll ask Larry

```
>> to coordinate with you in whatever way is most convenient to both of
>> you to get you the follow up information.
>>
>> Best, Gene
>>
>> Sent from my iPhone
>> Gene Gebolys
>> 617-312-6999
```

>> >

Message

From: Brian Diffell [diffell@wtppgroup.com]

Sent: 4/24/2017 9:01:04 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Meeting

Great thanks!

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, April 24, 2017 5:01 PM **To:** Brian Diffell diffell@wtppgroup.com

Subject: RE: Meeting

1200 pennsylvania ave. NW

From: Brian Diffell [mailto:diffell@wtppgroup.com]

Sent: Monday, April 24, 2017 4:59 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>

Subject: RE: Meeting

Ok great! What is actual street address just so I can write it down

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, April 24, 2017 4:57 PM **To:** Brian Diffell diffell@wtppgroup.com

Subject: RE: Meeting

I don't need your credentials in advance, but do bring a picture ID to get through security. Go to the NORTH entrance. It's immediately to the right when you come out of the Federal Triangle metro. Shoot me an email once you are through security and I'll come down and get you.

Look forward to catching up then.

Best, Mandy

From: Brian Diffell [mailto:diffell@wtppgroup.com]

Sent: Monday, April 24, 2017 4:48 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>

Subject: RE: Meeting

Yes let's do 1pm! Do you need our clearance details?

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, April 24, 2017 4:32 PM **To:** Brian Diffell diffell@wtppgroup.com

Subject: RE: Meeting

Yes – would 1 or 1:30 pm work on Wednesday the 26th?

From: Brian Diffell [mailto:diffell@wtppgroup.com]

Sent: Monday, April 24, 2017 4:28 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>

Subject: Meeting

Mandy, Amy decided to come to town this week.

Any chance you have time to meet with us? More to just sit down and make sure we all meet, even if it's just for 15-20 minutes! To thank you and see if there's anything else you need us to be doing.

Brian C. Diffell Washington Tax & Public Policy Group

Desk: (202) 534-4959 Cell: (202) 557-5983 diffell@wtppgroup.com

Air

Rule	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources (NSPS OOOOa rule) (June 3, 2016; 81 Fed. Reg. 35824)
Opportunity for Improvement	Final rulemaking directly regulates GHGs, in the form of a limitation of methane, as a pollutant. Under the Clean Air Act, the addition of GHGs as a regulated pollutant triggers the development of a regulation to address existing sources across the segments.
Suggested Improvement	EPA should revisit the final rule process the agency undertook that failed to demonstrate that the source category represents a "significant contribution" to endangering public health and welfare. EPA should also continue to work technical issues through administrative reconsideration process and provide immediate compliance date extensions to avoid costly implementation of rule requirement (e.g., leak monitoring and repair) while EPA revisits rule following publication of April 4th Federal Register (82 FR 16331).

Rule	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources
	(NSPS OOOOa rule) (June 3, 81 Fed. Reg. 35824) Alaska specific issues
Opportunity for Improvement	This rule would raise specific issues in Alaska:
	(1) The Leak Detection and Repair (LDAR) requirements of the OOOOa rule require periodic inspections with a prescribed technology (Optical Gas Imaging cameras and Method 21 detectors), but those instruments do not operate at temperatures less than -4°F per manufacturers' specifications, so compliance with the rule is not feasible when prevailing weather patterns involve long periods of temperatures below -4°F, such as on the Alaska North Slope.
	(2) The repair timelines do not adequately account for cold climates considerations. Some components used on the Alaskan North Slope are specially rated to -50°F to maintain integrity in the arctic climate. These specialty parts are not typically available for replacement within 30 days in the event of a leak, as the rule requires. Some parts may take up to 36 months to arrive for replacement because of the special climate rating. This delay due to parts unavailability would require shutdowns, and make the costs of the rule outweigh the benefit.
	(3) The State of Alaska already requires piping inspection for leaks monthly. When leaks are detected during these inspections, work orders are generated so they may be investigated and repaired. As similar work is already being done and regulated through a State agency, OOOOa is duplicative and does not achieve significant additional emission reduction in Alaska. The costs imposed by the LDAR requirements far outweigh the benefits of the rule.
	For more information on this topic, please see ConocoPhillips Alaska, Inc.'s OOOOa comment letter dated 12/4/2015 and API's OOOOa Petition for Reconsideration Letter dated 8/2/2016.
Suggested Improvement	The operations on the Alaskan North Slope should be categorically exempt from the LDAR requirements.

Rule	Release of Final Control Technique Guidelines for the Oil and Natural Gas Industry (October 27,
	81 Fed. Reg. 74798)
Opportunity for Improvement	Initiates requirements for states to incorporate controls for existing oil and gas sources within
	ozone implementation plans where non-attainment is moderate or above (or in OTR).
Suggested Improvement	EPA should revisit the stringency of the final CTGs and incorporate cost-effective VOC
	thresholds. EPA should provide clear flexibility to the states that any application of VOC
	controls within NOx-limited air sheds should be eliminated. Reducing VOC emissions in areas
	where the NOx-limited air sheds (where NOx emissions are the primary driver of low-level
	ozone formation) provides no additional environmental benefit.

Rule	Tribal Lands Federal Implementation Plan (FIP) (40 CFR 49)
Opportunity for Improvement	The FIP failed to accommodate synthetic minor sources, requires ESA/NHPA analyses, and is
	no longer useable for minor source permitting once an area is determined to be non-
	attainment
Suggested Improvement	EPA should modify the FIP to address all issues raised in API's petition including use of the FIP
	in ozone non-attainment areas and seek streamlined permitting for synthetic minor sources.

Rule	Emissions Standards for Small Remote Incinerators 40 CFR 60 Subpart CCCC and DDDD (effective February 2018)
Opportunity for Improvement	Small Remote Incinerator (SRI) emissions standards effective in February 2018 pose a serious concern for remote oil & gas operations in AK which do not have direct access to landfill disposal. EPA standards failed to account for waste stream variability and utilize a "pollutant by pollutant" approach to create a hypothetical incinerator. The rules do not consider net environmental benefits or conflicting regulatory requirements to quickly dispose of trash to minimize wildlife interactions in AK. Standards for newly built incinerators are not technically achievable.
Suggested Improvement	EPA should modify the requirements to allow units to meet operational performance standards (e.g., minimum combustion change temperatures, burn time, etc.).

Rule	Accidental Release Prevention Regulations Under Clean Air Act (RMP)
Opportunity for Improvement	EPA promulgated and issued an updated RMP final rule in January 2017 with little to no coordination with OSHA if RMP final rule remains as finalized, there will be significant differences between the RMP and PSM rules placing an increased regulatory compliance burden on regulated sites. RMP final rule has significant provisions that have not been shown will improve safety (inspecting all covered units, 3rd party audits, Safer Technology Alternatives & Analysis). EPA has not demonstrated that the benefits of the revised RMP final rule exceed costs.
Suggested Improvement	Initiate new rulemaking allowing the various provisions of concern to be readdressed.

Rule	Renewable Fuel Standard Program: Standards for 2017 and Biomass-Based Diesel Volume for 2018
Opportunity for Improvement	EPA published the final rule December 12, 2016 with an effective date of February 10, 2017. Problematic provisions include: (1) Unrealistic assumptions were used in predicting 2017 volumes of cellulosic biofuel, E85, E15, and E0; and (2) Fuels mandates do not reflect current markets, creating potential for economic harm.
Suggested Improvement	 (1) EPA should utilize its waiver authority in subsequent annual rulemakings to reduce the advanced, cellulosic, and total renewable fuel obligations to ensure the mandate does not exceed the E10 blend wall. In order to maintain a market for ethanol-free gasoline, EPA should not set a RFS mandate that would cause the average mandated ethanol content to exceed 9.7 percent of projected gasoline demand. (2) EPA should use realistic projections of E0, E15, E85 demand and cellulosic production when setting the annual RVOs. (3) EPA should work with Congress to reform and ultimately end this unworkable program.

Rule	Fuels Regulation Modernization – Streamlining (40 CFR Part 79 & Part 80)
Opportunity for Improvement	This action is the first of three phases intended to streamline and modernize EPA's fuels regulations. The purpose of this effort is to update EPA's existing gasoline and diesel regulations to reduce compliance costs for both EPA and industry, improve environmental benefits, and improve compliance assurance with EPA's fuels requirements. In this first phase, EPA will focus on streamlining and modernizing the existing fuels regulatory requirements and designing them in a way to match today's fuel marketplace, undertaking actions such as developing a single common set of provisions and definitions that will apply across all gasoline and diesel programs to reduce complexity, eliminate redundancy, and avoid duplication. Subsequent phases will look at removing variations in in-use fuel requirements and put in place provisions to ensure that health and welfare are protected as new fuels enter the marketplace.
Suggested Improvement	EPA should ensure that it reduces the burden of fuels regulations.

Rule	Startup, Shutdown, Malfunction (SSM)
Opportunity for Improvement	EPA began a systemic process of eliminating existing SSM exemptions and affirmative defense provisions from various Clean Air Act regulations and previously-approved SIPs. This potentially exposes every Title V-permitted manufacturing company, which must shut down and start up their equipment to conduct maintenance activities and other planned and unplanned outages, to citizen suits and potential civil penalties that can be costly and time consuming.
Suggested Improvement	EPA should reverse SSM SIP calls and defend previous SSM interpretations.

Rule	CAA Refinery Consent Decrees
Opportunity for Improvement	Most US refineries have agreed to settlement agreements under the Clean Air Act (aka.
	Consent Decrees), which were signed in the early 2000s. Many of these refineries have met all
	the requirements of their respective consent decrees, which should now be terminated. EPA
	has not allocated enough resources towards working with refineries to terminate their consent
	decrees.
Suggested Improvement	EPA should allocate more resources towards working with each refinery in order to terminate
	their respective consent decrees.

Rule	NAAQS Review: 2015 Ozone NAAQS
Opportunity for Improvement	A more stringent Ozone NAAQS of 70 ppb was promulgated in 2015 without a sufficient science basis. EPA requested and the Court granted EPA's request to evaluate how the Agency wishes to proceed. EPA will need to report to the court on the status every 90 days. The current NAAQS could result in potential long term non-attainment and over-control of domestic sources attempting to overcome background ozone concentrations.
Suggested Improvement	EPA should reconsider the 2015 Ozone NAAQS in a timely fashion. If the EPA does not decide to reconsider 2015 NAAQS, EPA should take steps to expeditiously revoke the 2008 NAAQS.

Rule	NAAQS Implementation (40 CFR Part 51)
Opportunity for Improvement	Implementation rules and associated tools (e.g., robust modeling tools) are not sufficiently
	flexible and available to implement the NAAQS. Rules should be predictable and provide
	maximum flexibility to the states and impacted sources. Grandfathering, which is addressed in
	the NAAQS rule itself, does not provide sufficient transition periods when a NAAQS is revised.
	The current situation can cause uncertainty and costly delays to both states and businesses.
Suggested Improvement	EPA should incorporate the maximum flexibility within the implementation rules.

Rule	NAAQS Implementation (40 CFR Parts 50 and 58)
Opportunity for Improvement	The compliance monitoring network can be improved with updated guidance to more accurate and economical monitoring practices that will reduce monitor interference, inlet height,
	altitude, and dry calibration effects currently understating NAAQS compliance.
Suggested Improvement	EPA should mandate deployment of new "interference-free" O3 FRMs & FEMs at design value sites, adjustment of current inlet height data to 2 meter outdoor breathing heights above ground level, barometric data adjustment to reflect reduced inhaled gaseous O3 mass in altitude-adapted populations above sea level, and dry calibration/wet operation guidance revision to reduce FRM concentration of O3 and FEM baseline shift effects. Support states in finding the modest resources to substantially improve the monitoring network and thereby limit nonattainment areas to appropriate jurisdictions.

Rule	SIP Attainment/Maintenance Demonstration Modeling
Opportunity for Improvement	States may conduct brute-force modeling which masks the cost-ineffectiveness of control of a particular source type or category. Facilities may be forced to install costly controls that provide little or no improvement in air quality.
Suggested Improvement	EPA should modify implementation rules to require control sensitivity analyses when requested by potentially impacted stakeholders. Sensitivity analyses to be performed in advance of a formal SIP proposal as new implementation rules are proposed.

Rule	Treatment of Data Influenced by Exceptional Events (40 CFR 50 [50.14])
Opportunity for Improvement	The Exceptional Event Rule is too narrow and does not provide the relief from events outside
	the control of air pollution control agencies. Areas could be classified non-attainment due to
	NAAQS exceedances attributable to background sources.
Suggested Improvement	EPA should incorporate policies to include lightning, biological processes and international
	pollution transport for evaluation as an event.

Rule	NAAQS Review: Standardize Implementation Schedules by finalizing all NAAQS as of 12/31 of the year of completion
Opportunity for Improvement	Implementation dates are driven by the finalization of the rules. Calendar years are used for monitoring data evaluation and ultimately when controls must be installed and attainment demonstrations performed. Conflicting schedules for different NAAQS at times result in a need to install controls more quickly than intended.
Suggested Improvement	EPA should prevent conflicting schedules from different NAAQS by making all NAAQS final as of 12/31 of the year promulgated. Establish a policy and include this final date in any schedule included in deadline consent decrees.

Rule	NAAQS Short Duration 2010 Standards
Opportunity for Improvement	The short-term standards for SO_2 and others, such as the current 1-hour standards, can cause permit delays due to sources conducting iterative modeling in order to demonstrate that a contemplated project does not "cause or contribute to the exceedance of a NAAQS." The short duration standards may not provide additional health protection over longer averaging time standards.
Suggested Improvement	When conducting NAAQS reviews, EPA should first consider longer term standards, such as an 8 and 24-hour standard, for contaminants for which a 1-hour standard provides no certain quantifiable additional health benefit.

Rule	Functioning and Role of the Clean Air Scientific Advisory Panel (CASAC) in the National Ambient Air Quality Standards (NAAQS) reviews (Section 109 of the Clean Air Act (CAA) enacted on August 7, 1977 (42 U.S.C. § 7409(d)(2)
Opportunity for Improvement	CASAC panels are not balanced; for example it can be difficult for industry representatives to be included on the committees. The full role of the CASAC as stipulated in the statutory language is not being fulfilled. This situation could result in NAAQS that are more stringent than required.
Suggested Improvement	EPA should select balanced panels. The SAB should ensure CASAC more closely follow the legislative role.

Rule	NAAQS Review: Process and Conclusions in Integrated Science Assessments (ISA) (statutorily
	known as the Criteria Document) (Section 109 of the Clean Air Act (CAA) enacted on August 7,
	1977 (42 U.S.C. § 7409(d)(1)
Opportunity for Improvement	To inform a NAAQS review, EPA (ORD) must evaluate whether a given pollutant causes a given
	health effect and at what dose. EPA's weight of evidence methods for determining
	likelihood/strength of causal links lack clarity, consistency and transparency.
Suggested Improvement	EPA should use consistent criteria for selecting and evaluating studies and use an established
	weight of the evidence approach to integrate and interpret all available data. EPA should also
	engage broader scientific community to evaluate current best practices regarding causality and
	weight of evidence methods.

Rule	NAAQS Review: Process and Conclusions in Risk and Exposure Assessment (REA)
Opportunity for Improvement	The REA process needs to provide more rigorous and scientifically sound risk assessments including error analysis. In addition to quantitative uncertainty analysis, EPA should quantitatively account for regulatory health dis-benefits (e.g., health dis-benefits of increased unemployment) should also be evaluated, for balancing against anticipated benefits of tightened NAAQS.
Suggested Improvement	EPA should ensure that the REA includes a more rigorous quantitative uncertainty analysis and presentation of a range of plausible risk values.

Rule	NAAQS Review: Policy Assessment (PA)
Opportunity for Improvement	This "staff paper" is reviewed by CASAC and this approach limits other stakeholder input at this
	pre-rulemaking stage.
Suggested Improvement	EPA should make the administrative change to issue the Policy Assessment as an Advanced
	Notice of Proposed Rulemaking to gather all stakeholder input on the conclusions of OAQPS.

Rule	NAAQS Review: Regulatory Impact Analysis (RIA) (Executive Order 12291)
Opportunity for Improvement	While the NAAQS are not evaluated on their cost while being developed, a draft RIA is produced when the proposed rule is issued. EPA relies on co-benefits from other pollutants to justify a NAAQS (e.g. PM2.5 co-benefits to justify an ozone NAAQS). These inflated benefits are often used to justify more stringent NAAQS than are necessary. RIA's should also characterize the uncertainty in any estimates.
Suggested Improvement	EPA should conduct cost-benefit analyses that do not rely on co-benefits. Analysis should include a robust uncertainty analysis consistent with OMB guidance for developing regulatory impact analyses (RIAs), as required for economically significant rules by Executive Order 13563, Executive Order 12866, and OMB Circular A-4.

Rule	NSR Reforms
Opportunity for Improvement	There continues to be a need for NSR reforms that simplify and streamline permitting. Uncertainty and overly prescriptive permitting requirements can cause significant delays. EPA is restricting use of the actual-to-projected actual test by issuing policy that is inconsistent with the rule, which in turn discourages both companies and states from using these provisions and states to allow their use.
Suggested Improvement	EPA models and procedures need to be updated to improve efficiency and to remove over-conservatism. EPA should finish previous NSR rulemaking efforts to implement improvements in netting and project aggregation evaluations, and incorporate ways to simplify complicated analysis such as BACT/LAER and Routine Maintenance Repair and Replacement Rule (RMRR) exclusion. EPA should issue a policy on use of the actual-to-projected actual test that is consistent with the rule and its intent and clarify that use of the provisions is not a prior approval scheme in the context of minor NSR permitting.

Rule	Significant Impact Level (SIL) used in PSD Permitting (40 CFR 51, 52)
Opportunity for Improvement	While Significant Impact Levels (SILs) are useful permitting tools, recent EPA guidance regarding SILs for ozone and PM2.5 recommends unnecessarily conservative levels. Unnecessarily conservative/low SILs result in more permit applicants having to conduct a resource intensive and time-consuming cumulative impact analysis.
Suggested Improvement	EPA should update its draft SIL guidance: Revise recommended SIL levels using EPA's previously used approximation of "4% of the NAAQS" or, if EPA sets SILs based on ambient monitor uncertainty, determine values using a 95% confidence interval, not a 50% confidence interval.

Rule	Definition of Ambient Air (NSR Policy and Guidance Database)
Opportunity for Improvement	EPA analysis assumes it is necessary to evaluate the air quality right outside of any facility boundary. This can be needlessly protective, for example in the case of evaluating modeled compliance with an air quality standard on a railroad right-of-way that bisects a manufacturing facility. There are other circumstances where the terrain or other factors make it highly improbable that people will be present. Additional controls and permit delays can result from this approach
Suggested Improvement	EPA should update the definition provided in the NSR Policy and Guidance Database to a reasonable definition that takes into account where people are not likely to be for any extended period of time.

Rule	Petroleum Refinery Sector Risk and Technology Review Rule (December 1, 2015, 80 FR 75178)
Opportunity for Improvement	Final rule published in December 2015 greatly expands control requirements at refinery flares,
	tanks, pressure-relief devices, and cokers. EPA has lagged in resolving outstanding API petition
	for reconsideration issues, including those that warrant regulatory language changes.
Suggested Improvement	EPA should reaffirm relevant features of the final rule without any increases in stringency.
	Accelerate pace of issue resolution, especially for issues for which compliance deadlines
	approach and for those requiring regulatory language changes. EPA should work to more fully
	develop the record on important aspects of the rule, like the work practice for pressure relief
	devices and flares.

Rule	Equipment Leak Standards (40 CFR 60 & 63)
Opportunity for Improvement	EPA has been unwilling to replace Method 21 with optical gas imaging, camera-based
	monitoring for the detection of leaks of VOCs and HAPs from equipment such as valves,
	pumps, and compressors.
Suggested Improvement	EPA should initiate rulemaking process to modify all appropriate regulations (e.g., NSPS
	VV/VVa) to allow use of camera-based equipment leak detection for refineries.

Rule	Once In, Always In Policy (40 CFR 63)
Opportunity for Improvement	EPA's policy (1995 Seitz memo) is that facilities that are major sources for HAPs on the first compliance date are required to comply permanently with the MACT standard (i.e "once in, always in.") This policy serves as a disincentive to older facilities that might otherwise contemplate additional controls or PTE limits to change permit status from major to area source.
Suggested Improvement	EPA should issue new guidance document that revokes this policy and allow sites to switch from major to area source status.

Rule	Work Practice Standards (40 CFR 60 & 63
Opportunity for Improvement	Increasingly high hurdle for EPA to establish work practice standards capable of addressing periods of malfunction, especially where alternative remedies are prohibitively costly with negligible environmental benefits.
Suggested Improvement	EPA should support work practices as appropriate policy. Evaluate possible statutory change. EPA should solidify as policy that, not only does the agency have authority to establish work practices, but that, in many instances; it's the preferable outcome to advance emission reductions while accommodating the technical limits of strict Clean Air Act rule-setting interpretations.

Rule	Reciprocating Internal Combustion Engine (RICE) NESHAP ZZZZ and NSPS JJJJ
Opportunity for Improvement	The excessive monitoring, reporting, and record keeping associated with these rules result in costs that outweigh the insignificant environmental benefits of regulated emissions from the affected engines.
Suggested Improvement	Revisit rules to identify opportunities for reducing burden associated with rule implementation and exempt portable engines, including emergency generators, from NSPS Subpart JJJJ and from NESHAP Subpart ZZZZ. The monitoring, reporting, and maintenance frequencies within these rules should be reduced. The rules should only be applicable to engine manufacturers based on model year with no recordkeeping requirements at the stationary source.

Rule	National Emission Standards for Hazardous Air Pollutants; Site Remediation (May 13, 2016, 81
	Fed. Reg. 29821)
Opportunity for Improvement	This proposed rule unnecessarily imposes stringent regulatory requirements on remedial
	activities that EPA itself has admitted are already adequately controlled under CERCLA and
	RCRA. This proposed rule would remove the existing exemption from the NESHAP standards
	for site remediation activities performed under CERCLA or a RCRA corrective action.
Suggested Improvement	EPA should not finalize rule.

Rule	General CEMS and CPMS QA/QC Requirements under MACT and NSPS
Opportunity for Improvement	EPA has become overly prescriptive in specifying CEMS and CPMS QA/QC requirements under MACT and NSPS. These requirements are complex, confusing, and costly to comply with, and provide little to no additional environmental protection as compared to adhering to manufacturers specifications. EPA should refrain from more prescriptive requirements and simply specify that sites adhere to manufacturer's specifications for these analyzers.
Suggested Improvement	EPA should only require CEMS and CPMS analyzers to meet the QA/QC requirements specified by the manufacturer.

Rule	Flare Requirements under NESHAP and NSPS
Opportunity for Improvement	EPA has recently promulgated new flare combustion efficiency and emergency flaring requirements in the Refinery Sector Rule (§63.670). In addition, EPA has also approved several Alternative Means of Limitation (AMEL) petitions for multi-point flares. To efficiently allow the utilization of these new standards and approaches in other industry sectors and for sites with multi-point flares, EPA should amend the MACT and NSPS General Provisions to allow others to utilize these new approaches.
Suggested Improvement	EPA should consolidate flare requirements by amending the MACT (§63.11) and NSPS (§60.18) General Provisions in a manner consistent with the Refinery Sector Rule and the approved AMELs.

Rule	Equipment Leak Standards (40 CFR 60 & 63) – Subparts KKK, OOOO, OOOOa, VV, VVa, HH
Opportunity for Improvement	The Leak Detection and Repair regulations are a complex web of regulatory requirements for the monitoring of leaks at natural gas plants. Although well-intended, the current enforcement initiative of LDAR where EPA obtains individual company databases containing thousands upon thousands of monitoring data points and runs diagnostics on the databases to look for data inconsistency, record mishaps, or missing data has resulted in an intense investment of resources and enforcement actions.
Suggested Improvement	The LDAR regulations found at Subpart KKK, Quad O, Quad Oa, VV, VVa all should be reviewed and revised to require the on-going conduction of leak monitoring and repairs but to provide more flexibility in repair schedules, monitoring corrections. The focus should be on a well-run monitoring and repair program, and permit upon discovery of minor recordkeeping or monitoring failures, the ability to make corrections and adjustment to the LDAR programs without having violated the regulations. Adding regulatory clarity to this program objective would save the government and industry thousands of man-hours spent on evaluating minor recordkeeping concerns.

Rule	Recordkeeping and Reporting (40 CFR 60, 61 and 63)
Opportunity for Improvement	Several rules under NSPS and NESHAPS require either quarterly or semi-annual reports for
	various requirements. These reports are time consuming and do not provide any
	environmental benefit.
Suggested Improvement	Any periodic report should only occur on an annual basis or at the very least, should only be
	required no more than semi-annually. It is also suggested that the periodic report due dates be
	staggered throughout the year instead of at the mid or end of year timeframe.

Rule	Performance Test (40 CFR 60, 61 and 63)
Opportunity for Improvement	Some federal air regulations (e.g., NSPS Subpart Ja) require annual certifications (Relative Accuracy Testing Assessment or RATA) on the continuous emission monitoring devices. The rule also requires quarterly cylinder gas audits (CGAs), which are also a form of analyzer system certification. These annual RATAs are costly and are unnecessary, especially since you are performing a quarterly system assessment. Furthermore, some rules only require CGAs to be done after the initial RATA has been conducted for items required to have CEMS. A re-RATA is required under these regulations only in the event if there is a significant change in the system (e.g. change analyzer system, probe locations, etc.).
Suggested Improvement	CGAs should be adequate to ensure that the monitoring systems are operating correctly without the increased costs of the annual RATAs.

Rule	Greenhouse Gas Reporting Program (GHGRP) for these Subparts:
	Subpart A (General Provisions), Subpart C (Stationary Combustion), Subpart P (Hydrogen
	Production), Subpart Y (Petroleum Refineries), Subpart MM (Suppliers of Petroleum Products),
	Subpart NN (Suppliers of Natural Gas and Natural Gas Liquids), Subpart PP (Suppliers of Carbon
	Dioxide),
	Subpart RR (Geologic Sequestration of Carbon Dioxide)
	Subpart W (Petroleum & Natural Gas Systems)
Opportunity for Improvement	For each Subpart, API provided unique technical and operational input pertinent to the specific
	Subpart, to achieve a balance between the burden of data collection and reporting, the need
	to protect sensitive information and ensure that reporting requirements are placed on the
	correct reporters, while providing the highest quality data.
	In past comments, API noted that EPA has other avenues to acquire the needed information -
	such as commercial data systems DI-Desktop or the EIA's information for onshore production,
	or the monthly reports to the Bureau of Ocean Energy Management (BOEM) at the well level,
	for offshore production.
Suggested Improvement	1) Petition to Reconsider has already been filed for some Subparts.
	2) In the past, API requested that EPA and OMB implement a GHGRP that would provide for
	less frequent reporting, such as every 2-3 years. This would be based upon an analysis of the
	burden of ongoing annual reporting and upon the lack of material change in annual emissions
	in many sectors that are pertinent to the petroleum and natural gas industry.
	3) EPA should focus on the most significant emission sources instead of focusing on overly-
	frequent reporting of minor sources. To further streamline the GHGRP it is suggested that the
	use of company records such as historical samples and engineering calculations should be
	allowed to avoid expensive and unnecessary calibration and sampling activities. Also GHG
	reporting should be confined to estimated GHG emissions as opposed to inputs such as feed or
	product volumes.
	4) EPA should organize its efforts such that the GHGRP reported data (which pertains to major
	emitters in 42 industrial sectors nationwide) is used to inform the development of EPA's
	National Greenhouse Gas Inventory, both for activity data and emission factor data. Better
	alignment of the GHGRP with the national GHG Inventory ensures better utilization of
	resources and personnel for both industry and the EPA
	resources and personner for both industry and the EPA

Rule	Greenhouse Gas Reporting Program (GHGRP): Leak Detection Methodology Revisions for
	Petroleum and Natural Gas Systems (Subpart W)
Opportunity for Improvement	Finalized three new reporting requirements and added two new monitoring methods for
	detecting leaks from oil and gas equipment for facilities conducting equipment leak surveys in
	all of the segments subject to reporting under Subpart W. EPA needs to preserve consistency
	of measurements and emission estimation methodology among sites, basins and nationwide
	as well as with NSPS Subpart OOOOa.
Suggested Improvement	Petition to Reconsider has been filed on 1/27/2017. This rule is tied to the outcome of NSPS
	0000a.

Rule	EPA Greenhouse Gas Reporting Program
Opportunity for Improvement	Currently, pneumatic devices, including pneumatic controllers, account for over 30 percent of methane emissions in the oil and gas sector in part due to overstated emission rates for pneumatic controller emission factors. These overstated emission factors make pneumatic controllers the largest oil and gas source category of methane emissions and cause the EPA to overstate overall oil and gas sector methane emissions. New research and emission measurement demonstrate that emission factors for intermittent pneumatic devices are much lower than reflected in EPA's current GHG reporting program.
Suggested Improvement	Continue work on EPA Greenhouse Gas reporting program to update estimated emission factors for intermittent pneumaticdevices to align with the latest research, such as Allen et al, Methane Emissions from Process Equipment at Natural Gas Production Sites in the United States: Pneumatic Controllers (2014) and Thoma et al, EPA's Assessment of Uinta Basin Oil and Natural Gas Well Pad Pneumatic Controller Emissions (2017).

Rule	Revisions to the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas (GHG) Permitting Regulations and Establishment of a Significant Emission Rate (SER) for GHG Emissions Under the PSD Program
Opportunity for Improvement	EPA's legal authority to establish such <i>de minimis</i> SER thresholds under the Clean Air Act is well-established when the administrative and economic burdens associated with permitting are not justified by the trivial emissions reductions from sources that emit below the <i>de minimis</i> threshold. Thus, there is no legal barrier to establishing an appropriate SER for GHG emissions.
Suggested Improvement	Carbon capture and storage ("CCS") should not be the basis for setting the SER a commercially viable emission control for stationary sources and should not be used to establish a <i>de minimis</i> threshold. EPA should consider comments submitted on the proposed SER rule and establish a <i>de minimis</i> thresholds significantly above 75,000 tpy. The proposed rule does not fully correct the PSD rule language in order to implement the UARG Supreme Court decision. EPA should consider comments on rule changes needed to fully implement UARG, such as to ensure that BACT for GHGs would not be required if a source only triggers non-attainment NSR but had a significant increase in GHGs.

Rule	Electronic Reporting (40 CFR 60 & 63)
Opportunity for Improvement	Rules require facilities to electronically report performance test and performance evaluation data. However, EPA's existing electronic infrastructure is limited, unreliable, and not currently capable of receiving all of the information that facilities are required to report. EPA should drop the electronic reporting requirement until the system is reliable and capable of receiving all of the required information.
Suggested Improvement	EPA should clarify, within the rules, that facilities are not required to provide electronic reports until the system is reliable and capable of receiving all of the required information.

Water

Rule	Clean Water Rule: Definition of "Waters of the United States," 80 Fed. Reg. 37,054, (June 29,
	2015).
Opportunity for Improvement	We support the review and ultimate revocation of this rule, as well as EPA's current effort to better define waters of the U.S. in a way that will protect waters, promote the goals of federalism, and provide certainty for businesses.
	Problems with the final 2015 Waters of the U.S. Rule include: 1) the Rule is vague in describing features that are purportedly waters of the U.S. (e.g., "tributary," "adjacent waters," and "significant nexus"), leaving uncertainty which makes informed decisions impossible without case-by-case determinations; 2) the Rule is overly broad, including many land and water features not within the scope of reasonable interpretation under the Clean Water Act (CWA) and exceeding the Agencies' Authority under the Commerce Clause; 3) the Rule relied upon EPA's Connectivity Report, which was still under review by EPA's Science Advisory Board during the entire comment period for the Rule and after the comment period closed. EPA made meaningful changes to the Connectivity Report, depriving the public of an opportunity to comment on or view the final scientific conclusions in the Connectivity Report during the comment period for the Rule and refusing to extend the comment period to allow for public comment on this critical aspect of the Rule; 4) EPA used federal funds to engage in a substantial advocacy campaign for the Proposed Rule to influence Members of Congress, state government officials, and the general public through aggressive social media tactics that generated superficial support for the Rule through Twitter and Thunderclap, soliciting non-specific statements on clean water and treating these "comments" as support for the Proposed Rule; 5) EPA made substantial changes to the Rule between publication of the Proposed Rule and promulgation of the Final Rule without inviting additional comments from the public; and 6) EPA conducted a flawed cost-benefit analysis that dramatically underestimated and omitted certain key costs from the Rule and overestimated certain benefits of the Rule.
Suggested Improvement	Subject to review under Executive Order 13778, Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the "Waters of the United States" Rule. Seek revocation, receive clear interim guidance, and replacement with a final rule providing more certainty for all stakeholders.

Rule	Effluent Limitations Guidelines and Standards for the Oil and Gas Extraction Point Source Category, 81 Fed. Reg. 124, 41845 (June 28, 2016) – published December 7, 2016.
Opportunity for Improvement	US EPA announced that it will develop standards for produced water from oil and natural gas operations discharged to POTWs — they set a "zero discharge" limit. This rule banned publicly owned treatment works from accepting waters from unconventional oil and natural gas development, relying only on circular logic and regional data. Repealing it would encourage businesses to advance water treatment technologies and infrastructure. Publicly owned treatment works (POTW) permit conditions can still and fulfill the environmental goal of allowing qualifying waters to be discharged at the only after appropriate permits with strict pretreatment discharge standards have been met. From a business perspective, repealing this rule would encourage the development of and adaptation of advanced water treatment technologies (both on-site and within POTWs).
	The rule was problematic in several ways: 1) It offered no environmental benefits and created possible environmental consequences (POTWs are already prohibited from accepting waters outside their permitted discharge limitations but this could cause environmental harm by permanently removing one of the few discharge options by which industry can return water to the hydrologic cycle and deprive POTWs of the economic benefits of accepting discharge related flows within their permit limits merely because of the origin of the water); 2) relied on a definition of unconventional previously used at the federal level only for statistical purposes which conflicts with state definitions (causing unintended consequences); 3) was based on a limited and largely regional data set (ironically from one of the regions where the rule conflicts with the applicable state definitions); 4) relied upon insufficient analysis and procedure (with EPA failing to conduct the statutorily required analysis to support their circular logic); and 5) lacked internal coordination within EPA (EPA handled the issue separately from the larger ongoing study on the use of centralized waste treatment facilities, contrary to the holistic approach recommended in the hydraulic fracturing drinking water study).
	Discharge of produced water from an off-site treatment plant is allowed under the CWA provided the treated water meets applicable water quality standards, and some states have permitted this activity. US EPA has a study underway to evaluate the O&G industry's use of CWTs. US EPA has stated: "While EPA is conducting a study of CWT facilities that accept oil and gas wastewater to determine if revision to the CWT regulations may be appropriate, EPA is not evaluating any approaches that would directly restrict their ability to accept such wastewaters."
	Overall, EPA has not followed the required processes to create standards and there is a concern that since certain regulations have been finalized, they will not "backslide" or make the regulation "less stringent."
Suggested Improvement	Candidate for replacement with appropriate pretreatment standards. Should only be repealed if replaced with appropriate pretreatment standards
	Ideas for Revisions: Clarify in the 40 CFR 435 regulations that any type of wastewater is allowed to be sent to POTWs, so long as it can meet the required pretreatment standards developed in a scientific manner. A zero discharge limit is not practical nor justifiable under the Clean Water Act. Also clarify in the CWA that water may be sent to a CWT for treatment and discharge at the surface, so long as the standards for a receiving navigable water are met.

Rule	2010 Congressionally-directed Study on the Relationship Between Hydraulic Fracturing and Drinking Water.
Opportunity for Improvement	A draft Assessment report was released on June 4, 2015 with the key finding, "the Assessment shows hydraulic fracturing activities have not led to widespread, systemic impacts to drinking water resources." The SAB Panel provided its recommendation report to the Administrator on August 10, 2016 and a Final assessment was released on December 13 with a revised final conclusion that hydraulic fracturing activities can impact drinking water resources and EPA identifies factors that influence these impacts.
Suggested Improvement	Recognition that extensive scientific data <u>does</u> exist to support EPA's original topline conclusion and that no additional scientific work was undertaken by the Agency, following the SAB peer review, leading to the final revised conclusion.

Rule	CWA: 40 CFR Part 435, No Discharge "East of the 98th Meridian"
Opportunity for Improvement	The US EPA Oil and Gas Onshore Extraction Point Source Category rule (40 CFR Part 435, Subpart C) regulates the discharge of produced water from oil and gas operations. This regulation prohibits point source discharge of wastewater pollutants into navigable waters from any source associated with production, field exploration, drilling, well completion, or well treatment (i.e., produced water, drilling muds, drill cuttings, and produced sand) east of the 98 th meridian. West of the 98th meridian operators can discharge produced water to the navigable waters for beneficial use for agriculture and wildlife propagation (40 CFR Part 435, Subpart E) as long as waste pollutants are removed to acceptable limits for the receiving waters
	For the most part, operators use different technologies to comply with this "no-discharge" regulation, including underground injection and use of pits or ponds for evaporation. Where direct discharge of wastewater is an option for disposal of wastewater, the owner/operator must obtain an NPDES permit from EPA or a delegated state.
	There are two problems with this division. First, the choice of the 98th meridian as a divider is inexplicable. Additionally, produced water should be treated like other types of potential discharges – eligible for discharge when permissible under strict permits with limits set based on water quality, economics, and technology.
Suggested Improvement	Clarify in in 40 CFR Part 435 that the discharge of produced water is allowed so long as it can meet the required NPDES standards, protective of navigable receiving waters.

Rule	40 CFR 60 Subparts CCCC and DDDD and proposed 40 CFR 62 Subpart III, Federal Plan
	Requirements for CISWI units in Alaska
Opportunity for Improvement	Small remote incinerators (SRIs) in Alaska cannot reliably achieve the emission limits in the 40 CFR 60 Subparts CCCC (emission limits for new units) and DDDD (emission limits for existing units) yet must comply with them either upon installation of a new unit or by February 2018 for existing units. As such, the SRI units in Alaska are, in the worst case, in danger of having to be shut down. In the best case, add-on controls or waste segregation measures would have to be implemented, thus defeating the utility of the SRIs.
	If the SRIs must be shut down, this could pose substantial problems in remote parts of Alaska – particularly on the North Slope.
	Incineration of food waste is a key element of measures imposed by state and federal agencies to reduce human-wildlife interaction. For example, the Alaska Department of Natural Resources North Slope Area-wide Lease Sale Mitigation Measures states at Mitigation Measure 4h that,
	"Garbage and domestic combustibles must be incinerated whenever possible or disposed of at an approved site"
	and at Mitigation Measure 4k,
	"Proper disposal of garbage and putrescible waste is essential to minimize attraction of wildlifeThe primary method of garbage and putrescible waste [disposal] is prompt, on-site incineration in compliance with state of Alaska air quality regulations."
	At remote work locations, food waste and other waste must be handled in a manner that does not attract wildlife. If disposal without incineration were relied upon as the waste management method, food wastes will invariably have to be stored to await shipment to a landfill — for some as far as 100 miles away. For remote locations that lack year-round or seasonal access to roads, waste must be flown off-site for disposal. During frequent periods of adverse weather, air shipment of waste may not be possible and the waste could remain stored remotely for several days — increasing the likelihood of attracting wildlife. This poses a threat to both man and animal. Indeed, the very first consideration that a waste management plan required by the Bureau of Land Management for operations in the National Petroleum Reserve — Alaska is this: "The plan shall identify precautions that are to be taken to avoid attracting wildlife to food and garbage." ²
	Overall, incineration helps to reduce the environmental footprint of remote operations on the North Slope. Without timely destruction of waste, more space would be needed for waste storage, which might translate to additional wetlands impact. For roadless operations, the need to transport waste by air increases emissions and noise. The additional work, costs, and risks associated with those efforts cannot be justified, especially when they come with their own environmental impacts.
	If the existing emission limits could be met using waste segregation measures, the utility of the SRIs would be largely lost. At remote transient sites such as seismic operations where there are no facilities, waste segregation and hauling are logistically impractical. Plastics will often have food waste on them and separating and storing them for eventual landfill disposal will

http://dog.dnr.alaska.gov/Permitting/Documents/Mitigation_Measures_North_Slope.pdf
 National Petroleum Reserve – Alaska, Integrated Activity Plan, Record of Decision, February 21, 2013, Best Management Practice A-2

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	increase the likelihood of attracting animals. Segregation of the sulfur-containing food wastes, such as egg shells, vegetables, meats, and dairy products will present obvious problems and, more importantly, render the use of incineration moot. There would be no point in having an incinerator if these wastes could not be burned. And the key element of those measures put into place to minimize wildlife interaction will have been defeated.
	To date, no add-on control technology has been identified that can provide reliable compliance with the emission limits for the types of waste burned on the North Slope. Industry continues to look for such technology, but making an investment without reasonable assurance of compliance would be unsound. Indeed, EPA has stated, "To the extent that these [small remote incinerators] are located in Alaska, a major difference in these types of units is the inability to operate a wet scrubber in the northern climates and the lack of availability of wastewater handling and treatment utilities."
Suggested Improvement	To solve this problem, EPA should accept newly available SRI emissions data and think outside of its "pollutant-by-pollutant" methodology for setting the floor for new and existing SRIs. Alaska industry is preparing a recommended way to do this within the confines of Clean Air Act section 129 and EPA is urged to extend the February 2018 compliance deadline and work cooperatively with industry to set new standards that are actually achievable.

³ Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units; Proposed Rule, 75 FR 31951, June 4, 2010.

Rule	U.S. Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Vessel General Permit for Discharges Incidental to the Normal Operation of a Vessel (VGP)
Opportunity for Improvement	This permit is applicable to discharges incidental to the normal operation of a vessel identified in Part 1.2.2 into waters subject to this permit. These waters are "waters of the United States" as defined in 40 Code of Federal Regulations (CFR) §122.2 (extending to the outer reach of the 3 mile territorial sea as defined in section 502(8) of the CWA). Much of the confusion surrounding the topic is because of overlapping federal laws and regulations as well as variation in local and state laws. EPA VGP regulations should align with or defer to existing USCG ballast water regulations.
Suggested Improvement	Amend VGP to include in 2.2.3.5.2: In cases in which the Coast Guard approves an alternative compliance date to this implementation schedule in accordance with 33 C.F.R. § 151.2036, the schedule for when ballast water treatment management methods become effective, EPA will consider this action to meet BAT requirements.

Rule	Information Collection Effort for Refinery Effluent Limit Guidelines (ELGs) Study – 308 Request
Opportunity for Improvement	ISSUE: EPA is in the process of issuing a 308 request to study refinery wastewater technology under a theory that more stringent technology-based effluent limitation guidelines may be warranted to address additional loadings of selenium and other contaminants from increased use of Canadian heavy crude feedstock and the installation of air pollution control equipment, and to address dioxins and polynuclear aromatics from particular refinery operations. The outcome of the study could lead to more stringent ELGs. This could lead to additional, technically difficult, costly controls with little to no water quality benefit.
Suggested Improvement	EPA should not issue the ICR and/or subsequently conclude that existing technology is already sufficient to protect water resources.

Rule	Spill Prevention, Control, and Countermeasure, 40 CFR 112
Opportunity for Improvement	Complexity and ambiguity of the rule invites regulatory misinterpretation and inequitable enforcement; excessive conservatism, particularly for facilities remote from navigable waters; and unreasonable cost burdens.
Suggested Improvement	Constrain the rule to economically achievable containment; increase applicability thresholds, including the volume threshold to 10,000 gallons; and expand exemptions/off-ramps.

Rule	Proposed Data Collection Submitted for Public Comment and Recommendations of a Proposed Information Collection Plan on "Health Risks for Using Private Water Wells for Drinking Water,
	- I
	originally published at 81 Federal Register 12902 on and released as an ICR on March 11, 2016
	and Submitted an Information Collection Request to OMB on the same topic on June 22, 2016 (81 Federal Register 40703).
Opportunity for Improvement	API's primary concern was the lack of detail in the actual notice regarding the variables which
opportunity for improvement	could affect the outcome of the investigation. The Agency should:
	Develop specific and appropriate selection criteria to ensure there is no bias from
	homeowners when choosing a population of private water wells for the investigation.
	 Indicate how it will consider the geology/hydrogeology where the selected private water wells exist.
	Determine how baseline water quality work will be undertaken to understand the aquifer and naturally occurring chemical and biological constituents.
	Determine how the implication of positive/negative urine and blood samples be attributed to water rather than other cause.
	Develop a response plan should a "contaminant" be found above some health limit and communicate the health limit selected to serve as the baseline.
	• Determine the anticipated baseline work with respondents to understand individuals' health conditions before the sampling begins.
	Follow proper sampling protocols for biological specimens.
Suggested Improvement	The proposal should be reworked to address the concerns raised in the comments API
	submitted.

Rule	2017 CWA Nationwide Permit 12, SC 17
Opportunity for Improvement	2017 Special Condition 17: "Tribal Rights. No NWP activity may cause more than minimal
	adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands."
	In the 2017 language "more than minimal adverse effects" is vague and subject to multiple interpretations making the conditions for Tribal consultation more unclear.
Suggested Improvement	Revert back to previous language

Rule	Clean Water Act Section 404(c)
Opportunity for Improvement	Clean Water Act 404(c) allows EPA to deny use of a defined area as a disposal site for dredge and fill activities whenever EPA wishes to make such a determination on the basis of impacts to aquatic life, wildlife or water supplies, be it prior to or even after US Army Corp of Engineers (USACE) has issued a permit authorizing those dredge and fill activities. This provision creates regulatory uncertainty, the potential for high restoration and mitigation costs, and loss of access to sites for industrial activities.
Suggested Improvement	 A regulatory provision constraining EPA's actions under 404(c) to prevent EPA from withdrawing a previously issued USACE dredge and fill permit on this basis; and to allow EPA, in consultation with USACE, to condition but not prohibit USACE issuance of a dredge and fill permit authorizing construction activities at a site. Repeal and replace the Clean Water Rule to provide clarity on the definition of Waters of the U. S. applicable to CWA 404(c).

Toxics

Rule	Addition of Natural Gas Processing (NGP) Facilities to the Toxics Release Inventory (TRI); Community Right-to-Know Toxic Chemical Release Reporting Proposed Rule published at 82 Fed. Reg 1651 on January 6, 2017 with a comment period extension published at 82 Fed. Reg. 12924 on March 8, 2017.
Opportunity for Improvement	On October 24, 2012, the Environmental Integrity Project (EIP) filed a petition with the EPA to add upstream activities to TRI reporting. EPA did not formally respond but separately included TRI review of the upstream sector in its 2013 regulatory agenda. On January 3, 2014 EPA published a notice of receipt of this petition and established a formal docket number to be used to view the petition and related documents. On January 7, 2015, EIP filed suit to compel EPA to make a decision on the petition. After almost a year of legal activity, on October 22, 2015, EPA denied in part the original petition, specifically with regards to upstream sector activity, and granted in part regarding the addition of natural gas processing (NGP) facilities to TRI reporting. On January 6, 2017 EPA published the proposed rule. EPA in its determination of applicability of NGP to TRI reporting, underestimated the associated administrative and financial burdens, and overestimated the benefits gained from the proposed rule.
Suggested Improvement	This regulation should be withdrawn, as EPA did not provide sufficient cause as to why NGP should be subject to EPCRA Section 313.

Rule	Hydraulic Fracturing Chemicals and Mixtures ANPRM originally published at 79 Fed. Reg.
	28664 on May 19, 2014 with a comment period extension published at 79 Fed. Reg. 40703 on
	July 14, 2014.
Opportunity for Improvement	Agency requested information that should be reported or disclosed for hydraulic fracturing
	chemical substances and mixtures and the mechanism for obtaining this information under
	TSCA 8(a) or 8(d) or both. The information that would be collected under a TSCA section 8(a)
	and/or 8(d) rule for chemicals and mixtures used in hydraulic fracturing is already available to
	EPA. The Agency has more toxicity and exposure information on the additives used in hydraulic
	fracturing than it has on many other existing chemicals, and available information is more
	detailed and extensive than information typically collected under TSCA.
Suggested Improvement	The ANPRM should be withdrawn. The Lautenberg Chemical Safety Act (LCSA) creates a risk-
	based framework for the prioritization and risk evaluation of chemicals, including those used in
	hydraulic fracturing.

Rule	Lautenberg Chemical Safety Act (LCSA) Section 6 implementation
Opportunity for Improvement	The proposed "framework" rules to implement LCSA have significant flaws that would render them ineffective, including: Inadequate mechanisms for designating low-priority chemicals; "Pre-prioritization" EPA activities that would not be transparent; Lack of adequate clarity on what information sources EPA will use for prioritization and what level of information the Agency will consider sufficient for prioritization;
	 Unnecessary inflexible focus on all conditions of use in prioritization and risk evaluation; Reliance on generic guidance in the risk evaluation proposed rule, in lieu of transparency on the specifics of how EPA will conduct risk evaluation; and Lack of definition of key terms and insufficient clarity on foundational concepts in the risk evaluation proposal.
	 Casts a wider net on Section 5 PMN reviews that result in unwarranted risk findings and consent orders, contributing to regulatory review delays and increased burden. In order for these important framework rules to be transparent, effective, and operate as LCSA intended, the final rules need to correct the flaws noted above and others that commenters on the proposed rules have flagged.
Suggested Improvement	The proposals should be reworked to reflect the concerns of API, ACC, AFPM and other affected businesses.

Rule	Integrated Risk Information System (IRIS)
Opportunity for Improvement	The Integrated Risk Information System (IRIS) is an EPA program to evaluate the hazards of chemicals and the doses at which those hazards may lead to adverse health effects. EPA's regions and regulatory offices use IRIS values to set regulatory levels in EPA air, water, waste and other programs decisions. The conclusions EPA makes through IRIS ripple through the Agency's regulations, and have led to unnecessarily stringent regulations in some cases. Moreover, IRIS relies on data, information, or methods that are not fully publicly available.
	In the IRIS program, EPA applies "science policy" to calculate toxicity values. The program generates toxicity values that rely on multiple default adjustment factors to address uncertainty in toxicity estimation. EPA's IRIS methods inflate toxicity estimates, which are then used in EPA regulations in many programs. The rationale for choosing the scientific data to be used as the basis for the IRIS numbers is not transparent.
	The IRIS program is inefficient and not based in sound science, using overly conservative assumptions in lieu of weight-of-evidence and other established scientific principles. The Lautenberg Chemical Safety Act (LCSA) establishes a framework for chemical risk evaluation and includes scientific standards in amended TSCA section 26. All data sources the Agency now uses to generate and analyze toxicity information should be consistent with those standards, and IRIS would need to be significantly revamped to meet them.
Suggested Improvement	Revamp IRIS program through an independent panel/committee

Rule	TSCA Premanufacture Notification (PMN) 40 CFR Part 720
Opportunity for Improvement	Since the June 2016 passage of the Lautenberg Chemical Safety Act (LCSA), EPA has made changes to its policies for review of TSCA section 5 notices for new chemicals (and section 5 exemption notices). The changes were not intended by LCSA, and have brought EPA's new chemical review to a virtual standstill. The situation in the new chemicals program is resulting in significant impacts on the ability of companies to move forward with technology and business plans that involve new chemicals.
	TSCA provides for a 90-day review period for new chemicals review, which EPA largely has adhered to in reviews over the past 40 years. However, of hundreds of PMNs under review since June 2016, only about 10% have passed through the process to commercialization. EPA has initiated regulatory action (so-called "5(e) orders") on over 80% of the chemicals under review, as compared to less than 5% in previous years. EPA has made the program changes unilaterally, without transparency or due process
Suggested Improvement	EPA should revert to the in place PMN-program pre-LCSA, and then make any necessary changes through notice and comment rulemaking, as opposed to Agency guidance.

Rule	Notification of Chemical Exports—Toxic Substances Control Act (TSCA) Section 12(b) 40 CFR Part 707 Subpart D
Opportunity for Improvement	TSCA export notification requirements have no health or environmental benefit, and are a prime example of an unnecessary bureaucratic program that should be eliminated. The only intended purpose of TSCA export notification is to enable EPA to notify a receiving foreign country that a chemical being exported to the country from the U.S. is subject to a TSCA action. There is no reason to believe that the information EPA provides is of any use to receiving countries, and more importantly, there are no benefits to the U.S. public interest. Furthermore, the current state of communication and technology has rendered EPA's notices to foreign countries obsolete. When TSCA was enacted in 1976, it would have been difficult for foreign governments to know what chemicals EPA regulated under TSCA. Now this information is readily available on the Internet. TSCA section 12(b) does require that exporters notify EPA of exports and that EPA provide receiving countries with notices, but it does not specifically mandate that EPA carry out its statutory obligation in the manner that it currently does.
Suggested Improvement	Repeal TSCA export notification requirements.

Waste

Rule	Financial Responsibility Requirements for Facilities in the Chemical, Petroleum and Electric
	Power Industries (Jan. 11, 2017, 82 Fed. Reg. 3512)
Opportunity for Improvement	Under this Notice of Intent, EPA is indicating that it is proceeding to consider CERCLA financial responsibility for other industries besides mining, including the petroleum industry. CERCLA financial responsibility would be both costly and unnecessary for petroleum facilities. Petroleum manufacturing facilities are already subject to comprehensive federal and state environmental regulations that minimize the risks of future CERCLA liability. In addition, a significant amount of material managed by petroleum refineries is excluded from the definition of hazardous substance and therefore outside the scope of CERCLA 108(b). EPA has not demonstrated the need for CERCLA financial responsibility, particularly since petroleum is exempt from the federal definition of a hazardous substance (and therefore CERCLA liability), and financial responsibility requirements already exist under RCRA addressing similar risks. Finally, most refineries are operated by economically strong companies and are unlikely to require public funding to address releases
Suggested Improvement	A final determination by EPA that CERCLA financial assurance for the petroleum sector is not necessary.

Rule	Definition of Solid Waste (Jan. 13, 2015, 80 Fed. Reg. 1694)
Opportunity for Improvement	EPA's definition of solid waste (DSW) defines what materials are wastes and, therefore, what materials are potentially subject to stringent regulation under RCRA. EPA has expanded this definition so that it captures many materials that are not being discarded, but instead can be beneficially reused in a production process or as fuels, including many materials from petroleum facilities that can be reused in this manner. This creates unnecessary waste management costs and discourages the beneficial reuse of valuable materials.
Suggested Improvement	Reopen the rulemaking to limit the definition and exclude materials that have a beneficial reuse, including materials that can be reinserted into the refinery or safely used as fuels. Note: API and other industry parties filed petitions for review of the 2015 DSW rule, challenging certain provisions of EPA's changes to the definition of solid waste.

Rule	Financial Responsibility Requirements Under CERCLA § 108(b) for Classes of Facilities in the Hardrock Mining Industry (Jan. 11, 2017, 82 Fed. Reg. 3388)
Opportunity for Improvement	Proposed rule establishes important precedent for EPA's imposition of financial responsibility requirements under CERCLA. The proposed rule imposes a complex process for facilities to calculate the amount of financial responsibility required. EPA's own estimates are that the rule will cost individual mining facilities between \$1 and \$19 million per year. In imposing this rule, EPA has neither adequately demonstrated the need and has ignored various other regulatory programs that address the same risks, such as state mining reclamation laws.
Suggested Improvement	A determination by EPA, after receiving public comment on the proposal, that financial responsibility is not necessary or appropriate for mining facilities.

Rule	Hazardous Waste Generator Improvements Rule (Nov. 28, 2016, 81 Fed. Reg. 85732)
Opportunity for Improvement	This rule made a wide range of changes to the standards for generators of hazardous waste, including several API supported. It also made a significant and unnecessary change by creating a distinction in the requirements between what EPA calls "independent requirements" and "conditions for exemption." The result is that even minor deviations from the generator standards could result in a facility being considered an unpermitted RCRA facility and subject to both disproportionate enforcement and a range of unnecessary requirements, such as RCRA corrective action. The closure requirements for central accumulation areas will restrict the flexibility facilities have to make changes to their operations and impose burdensome notification and post-closure requirements more appropriate for permitted treatment storage and disposal facilities (TSDFs) than 90-day storage areas. Many of the new requirements for contingency plans, particularly the requirement to develop a quick reference guide, are not appropriate or necessary for the many petroleum facilities with trained, internal emergency response teams and which are already subject to stringent process safety management, risk management, and emergency response requirements under other regulatory programs.
Suggested Improvement	Initiate an action to eliminate the distinction between "independent requirements" and "conditions for exemption." Rescind the closure requirements for central accumulation areas. Eliminate requirement to track containers over the life of site. The focus should solely be on if/when the site closes. Provide an exemption from the quick reference guide for facilities with internal emergency response capabilities. Note: API and other industry parties filed a petition for review of this rule challenging the "conditions of exemption" issue identified above.

Rule	Identification and Listing of Hazardous Waste (listing of K050) (May 19, 1980, 45 Fed. Reg. 33084)
Opportunity for Improvement	In 1980, EPA listed "heat exchanger bundle cleaning sludge from the petroleum refining industry" as a hazardous waste (K050) because of the presence of chromium from the use of corrosion inhibitors in cooling water. Refineries no longer use chromium in corrosion inhibiters yet EPA has never rescinded the listing. Refineries must therefore unnecessarily manage this waste under stringent and expensive hazardous waste rules.
Suggested Improvement	EPA rescinds the listing for K050.

Rule	Addition of a Subsurface Intrusion Component to the Hazard Ranking System (Jan. 9, 2017, 82 Fed. Reg. 2760)
Opportunity for Improvement	This rule will introduce burden and expense, while diverting federal resources with little or no environmental benefit. Most sites with significant vapor intrusion issues are already being addressed under CERCLA or other remedial programs. For other sites, CERCLA is an unnecessary and costly approach to addressing vapor intrusion and these sites are more effectively dealt with through state or even local government programs.
Suggested Improvement	Candidate for repeal.

Rule	Emergency Planning and Community Right-to-Know Act (EPCRA) Section 312 Chemical
	Inventory Requirements (40 CFR Part 370)
Opportunity for Improvement	Under regulations pursuant to EPCRA section 311, facilities must submit safety data sheets (SDSs) for each hazardous chemical present on-site at or above the reporting thresholds to their State Emergency Response Commission (SERC), Local Emergency Planning Commission (LEPC), and local fire department. The reporting thresholds are lower for "extremely hazardous substances" listed at 40 CFR 355, Appendix B. Facilities may choose to submit a list of the hazardous chemicals grouped into hazard categories instead.
	Although EPCRA section 311 regulations require a one-time submittal, there is another annual inventory report required under EPCRA section 312, which is burdensome and of minimal value. Facilities that are required to submit SDSs or the list of hazardous chemicals under EPCRA Section 311 are required to submit an annual inventory report for the same chemicals (EPCRA Section 312 requirement). This inventory report must be submitted to the SERC, LEPC and local fire department by March 1 of each year.
	Generating the annual inventory reports is labor intensive, as large sites have thousands of SDSs to include. There has never been any regular auditing of these reports by EPA or state agencies, which calls into question their significance. The value of these reports to emergency responders or for any other meaningful purpose to protect the community or environment is questionable.
Suggested Improvement	Amend the regulations to require submittal of a one-time inventory of Extremely Hazardous Substances as defined in 40 CFR part 355 Appendix A and Appendix B with ranges (i.e., <10klbs, >10klbs and <100klbs, and so forth). Require resubmittals only if there are significant changes.

Other

Rule	1980 National Contingency Plan (NCP) (40 CFR 300), and as amended, 2005 EPA Contaminated Sediment Remediation Guidance for Hazardous Waste Sites / 2002 Principles for Managing Contaminated Sediment Sites
Opportunity for Improvement	The EPA is not following risk management principles as outlined in the NCP regulations and EPA guidance manuals. Several regions apply arbitrary criteria and methods to artificially derive below regional background clean-up criteria leading to multiple +\$1B remedies.
Suggested Improvement	Work with HQ staff to ensure EPA regions follow applicable regulations and guidance. For remedies >\$100M, record of decisions should be approved by HQ staff. Increase authority of CSTAG to oversee region actions. Ensure source control / realistic risk and integrative remedies inclusive of capping / natural recovery and dredging are equally applied.

Rule	National Enforcement Initiative (NEI)
Opportunity for Improvement	The NEI has been focused on the oil and gas industry in recent years, with an undue impact
	and evaluation of the industry's continued operations.
Suggested Improvement	The NEI should be managed to not focus repeatedly on one industry. Smart effective
	regulations, along with state enforcement programs, should allow EPA to shift away from NEI
	altogether.



Howard J. Feldman

Senior Director

Regulatory and Scientific Affairs

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May 15, 2017

Ms. Samantha K. Dravis
Regulatory Reform Officer and Associate Administrator, Office of Policy
US Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460
Submitted via www.regulations.gov

Re: EPA-HQ-OA-2017-0190 (82 FR 17793)

Dear Ms. Dravis:

The American Petroleum Institute ("API") is pleased to provide comments to the US Environmental Protection Agency ("EPA") in response to the EPA's solicitation of input from the public to inform its Regulatory Reform Task Force's evaluation of existing regulations. API represents over 625 oil and natural gas companies, leaders of a technology-driven industry that supplies most of America's energy, supports more than 9.8 million jobs and 8 percent of the U.S. economy, and, since 2000, has invested nearly \$2 trillion in U.S. capital projects to advance all forms of energy, including alternatives.

Background

America is now the world's leading producer and refiner of oil and natural gas, a reality that was unimaginable just a decade ago. We've transitioned from an era of energy scarcity and dependence to one of energy abundance and security. The developments of the past decade have brought cost savings for American consumers, good paying jobs, renewed opportunities for U.S. manufacturing, a stronger economy and greater national security. Record U.S. production and refining is happening alongside greater environmental progress: CO₂ from power generation is down to near-30 year lows, thanks in large part to greater use of natural gas. Also, cleaner burning transportation fuels and industry investments in emissions reducing technologies have enabled reduced emissions of criteria air pollutants. In 2015, energy-related savings put an extra \$1,337 back in the pocket of the average American family, and AAA reports that drivers saved as much as \$550 in fuel costs. Energy abundance has helped cut energy and material costs for American manufacturers and is helping to attract manufacturing back to the U.S.

Technological innovations and industry leadership have propelled the oil and gas industry forward, despite the unprecedented level of federal regulatory actions targeting our industry. Consistent with President Trump's stated objectives of American energy independence and economic growth, EPA and other federal agencies should embrace and advance a regulatory system that promotes access to domestic oil and natural gas resources, streamlined permitting and cost-effective regulations. In 2011 and 2015, API supported EPA efforts to relieve the burdens imposed by its rules and the time has come to review those regulations and the additional requirements imposed by the previous Administration, while continuing to promote public health, safety and the environment as industry and citizens support.

API has recently submitted detailed comments to the Department of Commerce and other agencies to improve the manufacturing climate in the United States. (See docket DOC-2017-0001). The business community, including the oil and natural gas industry, relies upon a cost-effective regulatory system that promotes the certainty and predictability necessary to make the massive capital investments required to bring energy and other projects to the U.S. economy.

Key EPA regulations

Below, we highlight three of the key regulations which we urge EPA to review: oil and gas New Source Performance Standards (NSPS), Renewable Fuels Standards (RFS) and Ozone National Ambient Air Quality Standards (NAAQS) implementation. EPA Dockets EPA-HQ-OAR-2010-0505, EPA-HQ-OAR-2016-0004, and EPA-HQ-OAR-2016-0202 respectively contain API's recent comments on these three regulations. Greater detail on those and other regulations is found in Attachment 1, which contains API's detailed comments for the EPA regulatory review.

First, regarding the oil and gas final NSPS rule issued last year, API submitted a detailed petition for administrative reconsideration of the final rule to Administrator McCarthy in August, 2016. The previous 2012 standards and innovation are already effectively reducing emissions. We are encouraged by EPA's April 4, 2017 announcement to review the 2016 standards, and API supports a full review of all elements of the rule and the revision of the standards. Additionally, we recommend that EPA act quickly to extend the rapidly approaching compliance deadlines while the agency reconsiders the rule. EPA should also withdraw the Control Technique Guidelines it issued in October 2016, which share the same basis as the NSPS rule and call for similar requirements as the NSPS rule.

Second, there are a number of problems with the outdated Renewable Fuel Standard Program. API recommends:

- (1) EPA should utilize its waiver authority to reduce the advanced, cellulosic, and total renewable fuel obligations to ensure the mandate does not exceed the E10 blendwall.
- (2) In order to maintain a market for ethanol-free gasoline, EPA should not set a RFS mandate that would cause the average ethanol content to exceed 9.7 percent of projected gasoline demand. EPA should use realistic projections of E0, E15, E85 and cellulosic demand when setting the annual Renewable Volume Obligations.
- (3) EPA should reject calls to move the RFS Point of Obligation. The RFS has significant structural flaws, and moving the point of obligation will not alleviate them; it will simply reallocate the problems to a different group of fuel supply chain participants. The issue was considered by the two previous administrations and both appropriately decided to place the obligation with refiners and importers.
- (4) EPA should work with Congress to reform and ultimately end this unworkable program as the program does not reflect current market realities and it creates the potential for economic harm.

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¹ Final Rule (June 3, 2016; 81 Fed. Reg. 35,824) for the Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources (NSPS OOOOa rule)

² 82 Fed. Reg. 16,331

Third, regarding the Ozone NAAQS, API has commented previously that the more restrictive ozone standards imposed by EPA in late 2015 were unnecessary, because ambient ozone levels were declining and the public health was already protected with an adequate margin of safety. We also pointed out, as EPA correctly identified, that ozone levels would keep falling. Unfortunately, EPA's new standards create tremendous burden on states and risk significant impacts on job growth, and the potential number of U.S. counties thrown out of attainment could more than triple.

API supports EPA reconsideration of the 2015 Ozone NAAQS based on the issues API identified in its previous comments and court briefs, and is encouraged by EPA's motion to delay oral arguments on the 2015 Ozone NAAQS, while an internal review of the final rule is undertaken. It is critical that the EPA complete this review quickly as deadlines pertaining to the 2008 and 2015 ozone NAAQS are quickly approaching. If the EPA decides not to reconsider the 2015 Ozone NAAQS after its review, , we encourage EPA to expeditiously revoke the 2008 Ozone NAAQS as proposed in the 2015 Ozone Nonattainment Area Classifications and SIP Rule in order to avoid unnecessary burden associated with implementing two Ozone NAAQS Simultaneously.

Comprehensive Review of EPA Regulations

In addition to the detailed comments contained in Attachment 1, as part of the review process API suggests, in no priority:

- The cumulative cost impacts of regulations on individual industrial sectors be considered.
- 2. The review process seeks and utilizes actual compliance costs from impacted industries to the maximum extent possible.
- 3. The benefits attributable to any rule be determined based on measurable metrics to the maximum extent possible and be clearly attributable to the regulation under review.
- 4. Benefits are not double counted, i.e., the same benefits being attributed to multiple rules.
- 5. The science and data used to support a regulation should be reviewed to determine if they are still valid based on scientific integrity, consistent with EPA's Principles of Scientific Integrity and Policy (2012), with meaningful disclosure of all potential areas of bias, guarding against manipulation or misinterpretation. New information available since promulgation of the rule should be considered, consistent with the provisions mentioned above.
- 6. Reporting burdens be closely examined to evaluate if the amount, method and frequency of data collection are actually being used to any beneficial purpose and are actually necessary to meet the objectives of the regulation.
- 7. EPA should consider greater use of general permits as a cost effective permitting alternative.
- 8. EPA should evaluate how regulations can be written more clearly.
- 9. EPA should consider incentives for enhancing self-compliance auditing under the EPA Audit Policy and voluntary programs.
- 10. EPA should consider increasing flexibility in rules to allow sources broader usage of available technologies to monitor, model, and demonstrate compliance. Rules dictating precise monitoring, repair, modeling or compliance methods should be reviewed to eliminate outdated methods (i.e. Method 21 for LDAR monitoring).
- 11. All rules, including those subject to legal challenges, should be included in the review process.
- 12. Duplicative and overlapping regulations should be curtailed.
- 13. Regulations should be examined for any unintended, negative effects on recycling (i.e., regulations that create economic barriers to recycling).

Attachment 2 contains suggestions for future regulations and Attachment 3 highlights relevant economic impact studies.

In conclusion, we look forward to further working with Administrator Pruitt, EPA leadership and staff on these and other rules. Federal regulatory policy can either strengthen or weaken the U.S. energy renaissance, with impacts that extend far beyond our industry. Regulatory actions should be rooted in sound science and data, with a consideration of the costs and benefits, while protecting public health and the environment. With these goals in mind, we stand ready to work with EPA and the rest of the Administration to find reasonable solutions to the challenges before us.

Please do not hesitate to contact me via email at Feldman@api.org via phone at (202) 682-8340 for any clarification or supplemental information.

Sincerely,

Howard J Feldman

Attachments 1-3

Attachment 2 Future Regulations

- 1. Regulations need to be given a chance to take affect and be implemented before additional requirements controlling the same pollutants from the same sources are rolled out.
- 2. EPA needs to avoid rushing regulatory development with arbitrary, politically-motivated deadlines. This results in poorly crafted regulations leading to use of private and government resources on multitudes of regulatory revisions or expensive and protracted litigation. This places great cost on industry with no corresponding environmental benefit.
- 3. EPA should use the results of the review to improve cost/benefit analysis of future proposed regulations.
- 4. Where EPA identifies excessive regulatory burden, revisions should be made promptly to those regulations to eliminate wasted efforts.
- 5. EPA needs to look at the broader impacts of its regulations when it is promulgating them. This is inclusive of job impacts, energy security, and viability of regulated and indirectly impacted industries. For example, when EPA was promulgating the section 202 tailpipe light duty vehicle and then the truck standard, it did not consider and quantify the ramifications on stationary sources. The full effect of these regulations was not considered in the rulemaking and there was significant impact upon stationary sources.
- 6. EPA needs to adhere to the Administrative Procedures Act and other requirements for promulgating regulations and actually conduct detailed analysis prior to rulemaking. These would include, among others: a review of EPA's Information Quality Act Guidelines, where applicable; a detailed Regulatory Flexibility Act analysis to determine the impact of a regulatory action upon small businesses before certifying there is no significant economic impact; Unfunded Mandates Act to determine the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule; Paperwork Reduction Act analysis to see if Office and Management and Budget approval needed for information collection requirements of a rule; an E.O. 13211 review to determine impact on energy supply, distribution and use; an E.O. 12866 review to determine costs and benefits of regulation and reasonably feasible alternatives identified by agencies or the public and to include considering the option of not regulating; an E.O. 13132 and 13175 review as to federalism what is the impact of a regulation on state and local governments.
- 7. EPA, state and local governments, affected industry and NGO's need to revisit the automatic regulatory review triggers of the Clean Air Act. Too often, EPA's priorities are focused on meeting a court-imposed deadline for a regulatory review. If EPA wants to improve its regulations and focus on the most significant regulations, it needs Congressional relaxation of the numerous and frequent reviews that are required.

- 8. EPA should ask for, and carefully consider, comments related to overlap and duplicative/reporting/compliance between/within EPA regulations and those issued by other agencies such as DOT, USCG, etc. Much confusion and wasted time results from trying to interpret overlapping rules and jurisdictions, and complying with duplicative regulatory requirements.
- 9. EPA should seek industry input during specific regulation review to allow identification of industry issues and opportunity for introducing improved approaches.
- 10. Regulations should facilitate, rather than impede reducing, reusing, and/or recycling of raw materials. For example, requiring burdensome TSCA reporting of industrial by-products that are subsequently recycled or reused discourages businesses from engaging in ventures that may have positive benefits for the environment.

Attachment 3 Relevant Economic Impact Studies

List of API studies relevant to the economic impact of the EPA regulations

API contractors prepared the economic impact studies on EPA regulations listed below. API will provide the full studies to EPA upon request.

Report: Economic Impacts Resulting from Implementation of the RFS2 Program

Contractor / date: NERA Economic Consulting; July, 2015

Issue: Renewable Fuel Standard

Summary: NERA concluded, in affirming their previous study, that implementing the Renewable Fuel Standard at statutory volumes was infeasible and would result in severe economic harm. Severe economic harm is caused by insufficient RINs, market disruptions and outrageously high consumer costs for gasoline and diesel.

Report: Economic and Supply Impacts of a Reduced Cap on Gasoline Sulfur Content

Contractor / date: Turner, Mason & Company / February, 2013

Issue: Tier 3 fuel standards

Summary: TM&C quantified the economic and supply impacts of a reduction in the per gallon sulfur cap from current limits, with regards to a lower annual average sulfur limit of 10 ppm. TM&C concluded that the lower annual average sulfur limit of 10 ppm would effectively impose a tighter per gallon cap, but that imposing a tighter cap would increase capital costs by \$2 to \$6 billion and increase annual operating costs by \$900 million. The overall potential loss of gasoline supply due to a tighter cap could be 130,000 barrels per day, but in some regions, shortages could reach 25% to 50% during outages of sulfur reduction units. TM&C showed that a sulfur cap reduction would increase capital and operating costs, reduce compliance flexibility, and could result in potential loss of gasoline supplies.

Report: Addendum to Potential Supply and Cost Impacts of Lower Sulfur, Lower RVP Gasoline

Contractor / date: Baker & O'Brien; March 2012

Issue: Tier 3 fuel standards

Summary: Baker & O'Brien assessed potential impacts of fuel regulations related to tier 3 fuel standards. Across the scenarios examined, annual compliance cost ranged from \$13.2 billion to \$2.4 billion and compliance investment ranged from \$17.3 billion to \$9.6 billion. Scenario parameters closest to tier 3 regulations (sulfur reduction only, no change to RVP) resulted in estimated annual compliance costs of \$2.4 billion and compliance investment of \$9.8 billion. Allocated to gasoline production costs, the fuel regulations in the scenario increase the marginal cost of gasoline in most markets by 6 to 9 cents per gallon.

Report: A Comparison of U.S. Oil and Natural Gas Policies: Pro-Development vs. Proposed Regulatory Constraints **Contractor / date:** Wood Mackenzie; June 2015

Issues: Ozone, Methane emissions from existing sources, Clean Water Act, Refinery NSPS, Renewable Fuel Standard, NEPA

Summary: This study compared a "Pro-Development Policy" path and a "proposed regulatory constraints" path that modeled the total cumulative impacts of 10 regulatory initiatives from the EPA and other federal agencies. Individual impacts of proposed or recent regulations were not calculated. The study found that a path of regulatory constraints could lead to a reduction 3.4 million barrels of oil equivalent in US production, a loss of 830,000 jobs, a decrease of \$133 billion per year in the U.S. economy, and a cumulative loss of \$500 billion in government revenue.

Report: API Comments on the Proposed Rulemaking – Standards of Performance for New Stationary Sources: Oil and Natural Gas Production and Natural Gas Transmission and Distribution – Attachment E, API's Review of EPA's Cost Benefit Analysis

Contractor / date: Environmental Resources Management, Inc. (ERM); December 2015

Issue: New source performance standard for oil production and natural gas transmission and distribution; (40 CFR Part 50, Subpart OOOOa)

Summary: ERM provided a critical review and analysis of the RIA provided by EPA for the proposed changes to the NSPS OOOOa Rule. ERM found that EPA underestimated the technical costs of controls by nearly \$500 million (\$310 million versus \$806 million), and overestimated the emissions benefits by more than 43,000 metric tonnes, equating to roughly \$64 million. As a result, ERM calculated that the rule would result in social net costs, not benefits, over approximately \$410 million in 2025. ERM provided additional commentary on the inappropriate use of the social cost of methane by EPA.

Report: A Review of the Damage Functions Used in Estimating the Social Cost of Carbon

Contractor / date: NERA Economic Consulting; February 2014

Issue: IWG Social Cost of Carbon calculation

Summary: NERA performed a literature review regarding IAM damage functions and provided context for the damage functions used in the IWG analysis. NERA found that the uncertainties that underlie the SCC values resulting from uncertainties in damage functions create significant problems within the SCC. Possible damage estimates at a given point could differ by a factor of 20 or more, a fact that is obscured within the SCC. The report concluded that the parameter values and calibration procedure for the damage functions used in the modeling supporting the SCC are arbitrary. As a result, the IWG would need to significantly improve the characterization of uncertainties in the SCC in order to provide credibility.

Report: Energy Market and Macroeconomic Impacts of Compliance with a Rule Targeting Existing Oil and Gas Sources Contractor / date: Earth System Sciences Inc. (ESS) and NERA Economic Consulting (NERA); Expected May 2017 Issue: Potential existing source performance standard for methane emissions from oil and natural gas operations Summary: Incremental costs (net of recovered gas) are estimated to be in excess of \$3 billion per year. Costs are dominated in the Onshore Production and Gathering segment. Annual reoccurring costs are dominated by leak detection and recovery (LDAR). Estimated reduction of GDP \$7 to \$11 billion per year and a reduction of jobs supported in the economy of 60,000 to 125,000 job-equivalents. Economic impacts are near the higher end of the range in the early years but continue though end of modeling time horizon (2031).

List of other studies relevant to the economic impact of the EPA regulations

API would like to highlight the following economic impact studies on EPA regulations listed below.

National Association of Manufacturers

Report: Economic Impacts of a 65 ppb National Ambient Air Quality Standard for Ozone

Contractor / date: NERA Economic Consulting; February, 2015

Issue: Ozone NAAQS

Summary: Emission reductions required to attain a national Ozone NAAQS of 65 parts per billion would reduce national GDP by \$140 billion per year and result in an annual average loss of 1.4 million job-equivalents. In net present value (over the 2017 to 2040 timeframe) national GDP would be reduced by over \$1.7 trillion.

National Association of Manufacturers

Report: Assessing Economic Impacts of a Stricter National Ambient Air Quality Standard for Ozone

Contractor / date: NERA Economic Consulting; July, 2014

Issue: Ozone NAAQS

Summary: Emission reductions required to attain a national Ozone NAAQS of 60 parts per billion would reduce national GDP by \$270 billion per year and result in annual average losses of 2.9 million job-equivalents. Net present value (over the 2017 to 2040 timeframe) of national GDP would be reduced by over \$3 trillion. In a sensitivity case analysis of potential impacts, if new natural gas wells were constrained by the tighter Ozone NAAQS, average annual losses would be \$360 billion in GDP and 4.3 million job-equivalents. The net present value of GDP would be reduced by more than \$4 trillion.

American Council for Capital Formation

Report: Technical Comments on the Social Cost of Methane As Used in the Regulatory Impact Analysis for the Proposed Emissions Standards for New and Modified Sources in the Oil and Natural Gas Sector

Contractor / date: NERA Economic Consulting; December 2015

Issue: Social cost of methane, as used in new source performance standard for oil production and natural gas transmission and distribution; (40 CFR Part 50, Subpart OOOOa)

Summary: NERA provided a critical review of the social cost of methane estimates used in the RIA provided by EPA for the proposed changes to the NSPS OOOOa Rule. NERA took an in depth look at the Integrated Assessment Models used to generate the estimates, and provided modeling runs both to replicate EPA's work and provide corrected estimates. NERA found that correcting for errors in EPA's estimate for the social cost of methane (including discount rates, domestic net benefits, and radiative forcing impacts) could lower the social cost of methane by as much as 94%.

Report: The Impacts of Restricting Fossil Fuel Energy Production

Contractor / date: OnLocation Inc.; April 5, 2017

Issue: Opposition to Fossil Fuels

Summary: Based on the models used, a U.S. policy of "keep it in the ground" is projected to generate the following impacts relative to EIA's Annual Energy Outlook 2016 Reference Case. The keep it in the ground scenario includes no new oil and natural gas leases on private, State or federal lands, a ban on hydraulic fracturing, no new or expansions of existing coal mines, and no new energy infrastructure to transport oil and natural gas within and outside of North America.

US impacts by 2040:

- Loss of 5.9 million jobs
- Loss of \$11.8 trillion in cumulative GDP
- Potential increase of \$4,552 annual energy expenditures per household
- Potential increase of \$40 in the price of a barrel of crude oil (WTI)
- Potential increase of \$21 in the cost of natural gas (MMBTU)
- Potential increase of 56.4 percent in retail electricity prices

Page 3

Message

From: Michael Formica [formicam@nppc.org]

Sent: 5/9/2017 5:41:12 PM

To: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]; Washington, Valerie

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=9d031c02ce3a416dad0d421ee998d5a3-VWASHING]

CC: Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]; Schwab, Justin

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]; Gunasekara, Mandy

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: CAFO Air Emissions Court Decision

Yes. Thanks Sarah. That works for us.

Michael C. Formica Assistant Vice President & Legal Counsel, Domestic Policy National Pork Producers Council 202.680.3820

From: Greenwalt, Sarah [mailto:greenwalt.sarah@epa.gov]

Sent: Monday, May 08, 2017 9:25 PM

To: Michael Formica <formicam@nppc.org>; Washington, Valerie <Washington.Valerie@epa.gov>

Cc: Fotouhi, David <fotouhi.david@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Gunasekara, Mandy

<Gunasekara.Mandy@epa.gov>

Subject: Re: CAFO Air Emissions Court Decision

Michael, would Friday morning at 11:00-11:30am work for you guys?

Sent from my iPhone

On May 8, 2017, at 5:04 PM, Greenwalt, Sarah < greenwalt.sarah@epa.gov> wrote:

Thanks, Michael. Let me circle up with my folks to find a good time. Will get back to you as soon as I can.

Sarah A. Greenwalt

Senior Advisor to the Administrator for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency Work: 202-564-1722 | Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

From: Michael Formica [mailto:formicam@nppc.org]

Sent: Monday, May 8, 2017 4:51 PM

To: Greenwalt, Sarah <<u>greenwalt.sarah@epa.gov</u>>; Washington, Valerie <<u>Washington.Valerie@epa.gov</u>> **Cc:** Fotouhi, David <<u>fotouhi.david@epa.gov</u>>; Schwab, Justin <<u>schwab.justin@epa.gov</u>>; Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Subject: RE: CAFO Air Emissions Court Decision

Sarah,

Great to see you earlier today. Just following up here and hoping to get some time scheduled this week for our livestock coalition to come in and speak with you and your team. We are quickly coming up on a May 26th deadline for EPA to appeal or seek a rehearing on this case. We are available to come in and meet with you at any time that is convenient for your team.

Thanks again.

Michael C. Formica National Pork Producers Council 202.680.3820

From: Greenwalt, Sarah [mailto:greenwalt.sarah@epa.gov]

Sent: Thursday, May 04, 2017 10:10 PM **To:** Michael Formica < formicam@nppc.org>

Cc: Washington, Valerie < <u>Washington.Valerie@epa.gov</u>>; Fotouhi, David < <u>fotouhi.david@epa.gov</u>>; Schwab, Justin < <u>schwab.justin@epa.gov</u>>; Gunasekara, Mandy < <u>Gunasekara.Mandy@epa.gov</u>>

Subject: Re: CAFO Air Emissions Court Decision

Would be happy to discuss, Michael.

Valerie, please find some time on my calendar next week that also works for Justin and David. Thanks!

Sent from my iPhone

On May 3, 2017, at 12:21 PM, Michael Formica < formicam@nppc.org> wrote:

Sarah,

Thanks for sticking around and speaking with us this morning after the Ag Stakeholders meeting with the Office of Water. Wanted to follow up with you and try to schedule a time this week for the various livestock groups to come in and chat with you and EPA's other senior staff about the recent DC Circuit Decision on reporting air emissions from CAFOs.

Please let me know if there is a time that works well on your end for a more substantive discussion.

Thanks

Michael C. Formica National Pork Producers Council 202.680.3820

AGRICULTURE

Court rejects Bush rule exempting CAFOs from reporting

Amanda Reilly, E&E News reporter

Published: Tuesday, April 11, 2017 <image001.jpg>

A federal court tossed out a 2008 U.S. EPA rule exempting animal feeding operations from reporting pollution discharges. Photo by United States Geological Survey, courtesy of Wikipedia.

In a win for environmentalists, a federal court today tossed a George W. Bush-era rule exempting animal feeding operations from certain pollution reporting requirements.

A three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit agreed with green groups that lawmakers never intended to give U.S. EPA the authority to exclude those operations.

Congress didn't "give the agency carte blanche to ignore the statute whenever it decides the reporting requirements aren't worth the trouble," Judge Stephen Williams, a Reagan appointee, wrote for the court.

The court also found that manure storage at livestock operations poses more than a "theoretical" risk to public health.

At issue is a rule that EPA adopted in December 2008 exempting all animal feeding operations from reporting releases of hazardous air pollution from animal waste under the Comprehensive Environmental Response, Compensation and Liability Act.

Advertisement

Typically, facilities covered by CERCLA have to report discharges of pollutants above certain thresholds to a National Response Center.

EPA's rule also exempted all but large concentrated animal feeding operations, or CAFOs, from reporting emissions to local and state emergency officials under the Emergency Planning and Community Right-to-Know Act.

The Waterkeeper Alliance, the Humane Society of the United States and other environmental groups filed the lawsuit, arguing that the rule put citizens at risk of breathing harmful ammonia and hydrogen sulfide.

EPA, though, said that requiring producers to report under CERCLA would be burdensome and fruitless because "local response agencies are very unlikely to respond" to reports of pollution. The government also argued that EPA lacked information on how to go about measuring emissions.

EPA noted that the statutes contained unrelated reporting exceptions, including one for releases of engine exhaust. The agency argued that it should be afforded deference under the *Chevron* legal doctrine because there was ambiguity over whether it could carve out new exemptions that weren't specifically written into the statute.

But Williams rejected those arguments, writing that Congress didn't mean for EPA to fashion new exemptions.

"Read together the statutory provisions set forth a straightforward reporting requirement for any non-exempt release," Williams wrote.

"Conspicuously missing," he added, "is any language of delegation, such as that reports be 'as appropriate,' 'effective,' 'economical,' or made 'under circumstances to be determined by the EPA."

Williams also rejected EPA's arguments that the environmentalists didn't have legal standing to sue because they couldn't show a concrete harm tied to EPA's reporting exemption. He agreed with the environmental groups that they have been harmed because they have been deprived of information about livestock operations (*E&E News PM*, Dec. 12, 2016).

The judge also slammed EPA's arguments about the fruitless nature of reporting: "We find that those reports aren't nearly as useless as the EPA makes them out to be," he wrote.

While acknowledging that it's difficult to measure releases from animal operations because emissions don't come out of a smokestack, Williams wrote that releases can pose a serious risk.

"Anyone with a pet knows firsthand that raising animals means dealing with animal waste," he wrote. "But many of us may not realize that as the waste breaks down, it emits serious pollutants — most notably ammonia and hydrogen sulfide."

When manure that's sitting in storage is agitated for pumping, it can stir up emissions of the hazardous air pollutants, Williams said.

The risk from manure storage "isn't theoretical," Williams wrote. "People have become seriously ill and even died as a result of pit agitation."

Along with vacating the 2008 rule, the court also dismissed as moot a lawsuit by the National Pork Producers Council challenging EPA's decision to require large CAFOs to report under the right-to-know law.

Chevron skepticism

Judges Janice Rogers Brown, a Republican appointee, and Sri Srinivasan, an Obama appointee, heard the case with Williams.

In a concurring opinion, Brown said she agreed with the court's finding but said she was skeptical about some of the recent debate in legal circles about the two-step analysis that courts typically undertake under the *Chevron* doctrine.

Under the first step, courts look to whether Congress has been silent or ambiguous on an issue. The second step requires an analysis of whether an agency has acted reasonably.

While she agreed that the D.C. Circuit did the proper *Chevron* analysis in the case at hand, Brown said she worried that some scholars advocate leaving out the first step and simply looking at whether a federal agency action is reasonable.

"Congress is out of the picture altogether," she wrote. "Agencies are free to experiment with various interpretations, and courts are free to avoid determining the meaning of statutes."

"It isn't fair. It isn't nice," Brown wrote, quoting the Frank Sinatra song "Luck Be A Lady."

Leaving out the first step, she said, would implicate the separation of powers concerns that Justice Neil Gorsuch — then a judge on the 10th U.S. Circuit Court of Appeals — raised in an August 2016 concurring opinion. Gorsuch, who was sworn in for a seat on the Supreme Court yesterday, has questioned whether *Chevron* is still a valid legal doctrine.

Collapsing the two-step analysis, Brown said, was "yet another reason to question Chevron's consistency" with judges' duty to "say what the law is."

Click here to read the court's opinion

<Waterkeeper (09-1017) Opinion.pdf>

Message

From: Hoitsma, Gary [hoitsmag@carmengroup.com]

Sent: 5/3/2017 1:47:23 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Meeting Request Followup

Mandy,

I haven't heard back on my request on behalf of SCAQMD for meeting with the Administrator on May 16. The SCAQM guys are counting on getting in to see him that week. Can you help with this?

Thanks,

Gary

Gary Hoitsma
Carmen Group, Inc.
901 F Street, NW, Suite 600
Washington, DC 20004
202-218-4192 office
202-285-4307 cell



April 17, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Pruitt:

PMI Board of Directors

Peter Jahrling, Sloan Valve Company President

> Scott McDonald Fluidmaster, Inc. Vice-President

Nate Kogler Bradley Corporation Secretary-Treasurer

Paul Patton, Delta Faucet Company Immediate Past President

> Michael Miller LSP

Todd Teter Moen, Incorporated

> Joel Smith Kohler Co.

Chip Way Lavelle Industries, Inc. On behalf of Plumbing Manufacturers International (PMI), I am writing to urge your support for federal investment in our nation's drinking water infrastructure, including the U.S. Environmental Protection Agency's outstanding **WaterSense program**, a voluntary, public-private partnership that encourages voluntary reduction of water consumption by consumers and businesses.

In addition, PMI requests a meeting with you and your staff in the near future to discuss the WaterSense labeling and recognition program that is one of the most successful voluntary public-private partnerships in the federal government.

PMI is the nation's leading trade association for plumbing product manufacturers. Its members produce 90 percent of the plumbing products sold in the United States and employ thousands of workers in over 70 locations in 25 states. Our member companies' plumbing products are found in the majority of homes, commercial buildings, schools, restaurants, manufacturing facilities, hospitals, and hotels across the nation. Examples of these products include but are not limited to showerheads, kitchen and bathroom faucets, toilets, urinals, fixture fittings, sinks, whirlpools/tubs, and waste disposal systems. PMI member companies design and produce water-efficient products, without sacrificing performance, and continue to raise the bar in developing the most advanced water-efficient plumbing products.

PMI urges you to preserve the WaterSense program for the remainder of Fiscal Year (FY) 2017, as well as in FY18 and beyond, so that this valuable and highly productive partnership between government and the private sector can continue. The WaterSense program costs the agency only approximately \$3 million a year to administer. It is an example of an effective collaboration between industry and the government in determining voluntary water efficient performance measures that can be used by consumers, industry, as well as states and local governments, and it is not duplicated by any other organization, private or public.

WaterSense Provides Benefits to Industry and Consumers

PMI and its members have proudly participated in the WaterSense program since its inception, when it was created at EPA during the George W. Bush Administration ten years ago. Today, more than 1,700 WaterSense partners, including manufacturers, water utilities, building groups, retailers, associations, and communities, collaborate with EPA to make this program successful.

Plumbing products bearing the WaterSense label are 20 percent more water-efficient than standard products; provide measurable water savings results; and require independent, third-party certification.

The WaterSense label is critical to consumers seeking to identify and purchase a water-efficient plumbing product. Using WaterSense-labeled products, consumers have saved more than \$30 billion in water and energy bills since the creation of the program.

As a result of the program, manufacturers have developed more than 16,000 models of WaterSense-labeled products for bathrooms (toilets, showerheads, faucets, and urinals), commercial kitchens, and irrigation systems.

EPA's Role is Critical to WaterSense's Success

- The WaterSense program has created a new water efficiency benchmark for plumbing products that has allowed our members to confidently invest millions of dollars in product development and marketing initiatives, knowing that there will be a market for these products.
- The continued existence of the WaterSense program will continue to help create markets for future generations of water-efficient products and market opportunities for manufacturing and retail partners.
- Rather than having local officials make their own determination on the maximum amount of water used per flush by toilets and urinals and water used per minute by faucets and showerheads, WaterSense provides the national specifications agreed to by industry and guaranteed by the federal government. This has helped prevent states and municipalities from creating their own patchwork of new specifications that manufacturers and other industry stakeholders would have to meet, which would add to the costs of implementing and complying with such efforts.
- WaterSense serves as a de facto voluntary national standard that has allowed states to adopt more water efficient standards and be assured that there are products already available in the marketplace.
- Without the EPA in charge, there would be no national organization to oversee the use of the label that ensures consumers and builders that they're getting a product that works.

With an aging infrastructure system nationwide that needs billions of dollars in upgrades and with 30% of the nation facing drought conditions according to the National Oceanic and Atmospheric Administration (NOAA), real and immediate water savings can be achieved now, by simply retrofitting old, inefficient models with WaterSense high-efficiency toilets, showerheads and faucets. The federal government sees a major payback in the water and energy saved through more efficient water and plumbing systems.

PMI believes WaterSense is one of the most cost-effective nationwide programs geared toward saving money and protecting water resources. Its track record is impressive in

promoting successful partnerships between public and private entities that protect and improve our nation's water resources.

We look forward to meeting with you and your staff soon. In addition, our members would welcome the opportunity to host you at their facilities for you to see first-hand the ongoing technology research and development as well as production of thousands of innovative, highly engineered plumbing products.

In the meantime, if you have any questions or need additional information, please contact me or Stephanie Salmon in the PMI Washington Office at ssalmondc@gmail.com or 202-452-7135.

Sincerely,

Barbara Higgens

CEO/Executive Director

Plumbing Manufacturers International

Buban C Niggro

bhiggens@safeplumbing.org

PMI Board of Directors

cc: Samantha Dravis, Associate Administrator, EPA
Sarah A. Greenwalt, Senior Counsel, EPA
Mandy Gunasekara, Senior Policy Adviser, EPA
Ryan Jackson, Chief of Staff, EPA
Senator Lisa Murkowski
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Message

From: Raymond, Kelley [KRaymond@ahrinet.org]

Sent: 5/17/2017 9:11:24 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: How's the gig?

Mandy-

Hope all's going well! I've been seeing your quotes in the news, and it looks like you've been keeping quite busy! If you ever have time, I would love to catch up and here how it's going for you.

I was also wondering, on a professional level, in your role would you be up for more formal speech requests? AHRI does a number of meetings throughout the year, and are often bringing in staff from the agencies to speak. EPA in particular is of interest to our industry as it oversees the ENERGY STAR program, the Significant New Alternatives Program (SNAP) approval of refrigerants, and it's regulatory efforts on the regulation of HFCs/ implementation efforts of the Montreal Protocol/Kigali Amendment. If coming to speak to our group might be of interest sometime, let me know.

Kelley Raymond

Director of Government Relations Air-Conditioning, Heating, and Refrigeration Institute

Phone: 703-293-4847 Mobile: 202-230-6307

E-mail: KRaymond@ahrinet.org



we make life better"

AHRI Certified® Over 50 Years of Leadership in Environmental Stewardship, Energy Efficiency, Performance, and Customer Satisfaction.

Message

From: Hughes, Krista (Perkins Coie) [KHughes@perkinscoie.com]

Sent: 5/2/2017 2:42:16 PM

To: Washington, Valerie [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=9d031c02ce3a416dad0d421ee998d5a3-VWASHING]

CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Johnson Koch, LeAnn

M. (Perkins Coie) [LeAnnJohnson@perkinscoie.com]

Subject: RE: Request for Meeting with Admin. Pruitt

Hi Valerie,

I'm following up on the voicemail I left you a few minutes ago and the emails below. Could you please let me know what time the meeting with the Small Refiners Coalition is scheduled for on May 11th? Several members of the Coalition will be flying into D.C. for the meeting and need to arrange their travel plans. Please feel free to give me a call if that's easier for you.

Thank you, Krista

Krista Hughes | Perkins Coie LLP

ASSOCIATE
700 Thirteenth Street, N.W. Suite 600
Washington, DC 20005-3960
D, +1,202,654,6309
F +1,202,654,9989

E. KHughes@perkinscoie.com

From: Hughes, Krista (WDC)

Sent: Tuesday, April 25, 2017 11:58 AM

To: 'Washington, Valerie'

Cc: 'Gunasekara, Mandy'; Johnson Koch, LeAnn M. (WDC) **Subject:** RE: Request for Meeting with Admin. Pruitt

Hi Valerie,

I just wanted to confirm that we are scheduled to meet with Mandy and her staff on the morning of Thursday, May 11th. The Coalition members will need to start arranging travel to D.C. so I just wanted to make sure we are confirmed for that date/general time.

Thank you, Krista

Krista Hughes | Perkins Coie LLP

ASSOCIATE
700 Thirteenth Street, N.W. Suite 600
Washington, DC 20005-3960
D. +1.202.654.6309
F. +1.202.654.9989

E. KHughes@perkinscole.com

From: Hughes, Krista (WDC)

Sent: Saturday, April 22, 2017 7:57 AM **To:** 'Gunasekara, Mandy'; Washington, Valerie

Cc: Johnson Koch, LeAnn M. (WDC)

Subject: RE: Request for Meeting with Admin. Pruitt

Hi Mandy and Valerie,

We expect to have between 6 and 8 people from our group attend the meeting in person in D.C. Other members of the Coalition may want to participate remotely, so if you could set up a telephone conference line in the room, that would be great.

Thank you, Krista

Krista Hughes | Perkins Coie LLP

ASSOCIATE

700 Thirteenth Street, N.W. Suite 600 Washington, DC 20005-3960 D, +1.202.654.6309 F +1 202.654.9989

E. KHughes@perkinscoie.com

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Friday, April 21, 2017 7:28 PM

To: Hughes, Krista (WDC); Washington, Valerie

Cc: Johnson Koch, LeAnn M. (WDC)

Subject: Re: Request for Meeting with Admin. Pruitt

Hi Krista,

I'm connecting you with Valerie Washington who can help with the logistics. How many folks would (or do you estimate) attend from your end?

Valerie, can you please find a time the morning of May 11th to meet with the Small Refiners Coalition to discuss RFS. Also a location that can accommodate the group.

Thanks, Mandy

Sent from my iPhone

On Apr 21, 2017, at 4:36 PM, Hughes, Krista (Perkins Coie) <KHughes@perkinscoie.com> wrote:

Great. What time on Thursday would work for you and your team? We can be available anytime Thursday morning.

Krista Hughes | Perkins Coie LLP

ASSOCIATE
700 Thirteenth Street, N.W. Suite 600
Washington, DC 20005-3960
D. +1,202,654,6309
F. +1,202,654,9969

E. KHughes@perkinscole.com

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Friday, April 21, 2017 4:33 PM

To: Hughes, Krista (WDC)

Cc: Johnson Koch, LeAnn M. (WDC)

Subject: RE: Request for Meeting with Admin. Pruitt

Yes – that day and time would work great.

From: Hughes, Krista (Perkins Coie) [mailto:KHughes@perkinscoie.com]

Sent: Friday, April 21, 2017 1:07 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>

Cc: Johnson Koch, LeAnn M. (Perkins Coie) < LeAnnJohnson@perkinscoie.com>

Subject: RE: Request for Meeting with Admin. Pruitt

Hi Mandy,

Several members of the Small Refiners Coalition are available for a meeting on the morning of Thursday, May 11th. Does that day and time work for you?

Thank you, Krista

Krista Hughes | Perkins Coie LLP

ASSOCIATE

700 Thirteenth Street, N.W. Suite 600 Washington, DC 20005-3960 D. +1.202.654.6309 F. +1.202.654.9989

E. KHughes@perkinscoie.com

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Thursday, April 20, 2017 3:11 PM

To: Hughes, Krista (WDC)

Cc: Johnson Koch, LeAnn M. (WDC)

Subject: RE: Request for Meeting with Admin. Pruitt

Yes- May 8th! Thank you

From: Hughes, Krista (Perkins Coie) [mailto:KHughes@perkinscoie.com]

Sent: Thursday, April 20, 2017 2:00 PM

To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>

Cc: Johnson Koch, LeAnn M. (Perkins Coie) < LeAnnJohnson@perkinscoie.com>

Subject: RE: Request for Meeting with Admin. Pruitt

Thank you very much, Mandy. I assume you mean the week of May 8th, not March 8th. I will check with the Coalition members to confirm their availability and will get back to you soon.

Krista Hughes | Perkins Coie LLP

ASSOCIATE

700 Thirteenth Street, N.W. Suite 600 Washington, DC 20005-3960 D, ±1.202.654.6309 F. ±1.202.654.9989 E. KHughes@perkinscole.com

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Wednesday, April 19, 2017 7:15 PM

To: Hughes, Krista (WDC)

Cc: Johnson Koch, LeAnn M. (WDC)

Subject: Request for Meeting with Admin. Pruitt

Hi Krista,

The Administrator's scheduler forwarded me your meeting request to take on his behalf. I'm his Senior Policy Adviser for the Office of Air and Radiation and accordingly am the point person for all issues related to the RFS. I'm familiar with the Small Refiners Coalition and would be happy to discuss the RFS program with your members. I'm flexible the week of March 8th. Please let me know if any of those days would work for your members.

Thank you for the outreach and I look forward to hearing from you soon.

Best, Mandy NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

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NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

Chris Bliley [cbliley@growthenergy.org] From:

5/1/2017 1:17:04 PM Sent:

Subject: FW: FOR IMMEDIATE RELEASE - Growth Energy Congratulates Kwik Trip on Joining Prime the Pump, Offering E15

Attachments: ATT00001.txt; 5.1.17 Kwik Trip Release_FINAL.PDF

FYI - see below on KwikTrip's offering of E15 in Iowa, Minnesota, and Wisconsin. Please let me know if you have any questions.

Chris Bliley **Growth Energy**



FOR IMMEDIATE RELEASE

PRESS CONTACT: Chris Hogan 202.545.4025 May 1, 2017 CHogan@growthenergy.org

Growth Energy Congratulates Kwik Trip on Joining Prime the Pump, Offering E15

WASHINGTON, DC — Today, Kwik Trip has announced its move to join other major fuel retailers in offering E15—a biofuel that contains 15 percent ethanol—to customers in Iowa, Minnesota, and Wisconsin. Kwik Trip is aggressively adopting E15 by leveraging existing infrastructure to offer it. The company plans to eventually offer E15 at most of its more than 500 locations.

"The list of retailers offering E15 is expanding constantly and we are excited to welcome Kwik Trip as the latest retailer to join Prime the Pump and the impressive group at the forefront of expanding fuel choices for American drivers," said Growth Energy CEO Emily Skor. "Consumers are seeing the value E15 offers—from burning cleaner and cooler, which is better for engines and the environment, to saving up to 10 cents per gallon each trip at the pump—and we're thrilled that more and more Americans are having access to it each day."

Kwik Trip joins, Casey's, Family Express, Kum & Go, MAPCO, Minnoco, Murphy USA, Protec Fuels, Quik Trip, RaceTrac, Sheetz, and Thorntons in offering their customers expanded fuel choices at the pump. E15 is approved for use in all vehicles 2001 and newer and is the most tested fuel in history. The United States Department of Energy, NASCAR, and consumers have put it to the test over millions of miles with great results.

To find their nearest E15 station, Kwik Trip customers should go to GetEthanol.com.

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About Growth Energy

Growth Energy represents producers and supporters of ethanol working to bring consumers better choices at the fuel pump, grow America's economy and improve the environment for future generations. Our organization's national campaign – online at www.GetEthanol.com – serves as the leading source of information for consumers seeking cleaner, more affordable fueling options. For more information on our organization, visit us at www.GrowthEnergy.org, follow us on Twitter @GrowthEnergy.org, or connect with us on Facebook.

About Kwik Trip, Inc.

Founded in 1965 in Eau Claire, Wisconsin, Kwik Trip, Inc. is one of the largest independently held convenience store chains in the United States. Today, Kwik Trip owns and operates over 550 stores in Wisconsin, Minnesota and Iowa and employs over 18,000 people. Kwik Trip has consistently been named a Top Workplace in all three states in which it operates. Kwik Trip continues to grow through new initiatives like a strong focus on food and value priced commodities. For more information please visit www.kwiktrip.com.



701 8th Street, NW, Suite 450, Washington, D.C. 20001 RHONE 202.545.4000 FAX 202.545.4001

GrowthEnergy.org

FOR IMMEDIATE RELEASE

May 1, 2017

PRESS CONTACT: Chris Hogan 202.545.4025 CHogan@growthenergy.org

Growth Energy Congratulates Kwik Trip on Joining Prime the Pump, Offering E15

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To find their nearest E15 station, Kwik Trip customers should go to GetEthanol.com.

###

About Growth Energy

Growth Energy represents producers and supporters of ethanol working to bring consumers better choices at the fuel pump, grow America's economy and improve the environment for future generations. Our organization's national campaign – online at www.GetEthanol.com – serves as the leading source of information for consumers seeking cleaner, more affordable fueling options. For more information on our organization, visit us at www.GrowthEnergy.org, follow us on Twitter @GrowthEnergy.org, or connect with us on Facebook.

About Kwik Trip, Inc.

Founded in 1965 in Eau Claire, Wisconsin, Kwik Trip, Inc. is one of the largest independently held convenience store chains in the United States. Today, Kwik Trip owns and operates over 550 stores in Wisconsin, Minnesota

Page 1 of 2

and Iowa and employs over 18,000 people. Kwik Trip has consistently been named a Top Workplace in all three states in which it operates. Kwik Trip continues to grow through new initiatives like a strong focus on food and value priced commodities. For more information please visit www.kwiktrip.com .		
777 North Capitol Street, NE, Suite 805, Washington, D.C. 20002	Page 2 of 2	

IN THE COURT OF COMMON PLEAS WASHINGTON COUNTY, OHIO

STATE OF OHIO, ex rel.	: CASE NO.
MICHAEL DEWINE	*
OHIO ATTORNEY GENERAL,	*
Plaintiff,	; JUDGE
V.	* · · · · · · · · · · · · · · · · · · ·
ERAMET MARIETTA INC.	: CONSENT ORDER FOR INJUNCTIVE : RELIEF AND CIVIL PENALTIES AND
Defendant.	: FINAL JUDGMENT ENTRY :

The State of Ohio, by its Attorney General ("Plaintiff"/"the State") and at the written request of the Director of the Ohio Environmental Protection Agency has filed a Complaint seeking injunctive relief and civil penalties against Defendant Eramet Marietta Inc. for violations of Ohio's air pollution laws under R.C. Chapter 3704, the rules, and a permit adopted thereunder concerning the Defendant's manganese ferroalloys operation located at 16705 State Route 7, Marietta, Washington County, Ohio 45750. Plaintiff and Defendant have consented to the entry of this Order,

Therefore, without trial, admission, or determination of any issue of fact or law and with the consent of the Parties hereto, it is ORDERED, ADJUDGED, AND DECREED:

I. DEFINITIONS

- 1. As used in this Order, the following terms are defined:
 - a. "Defendant" means Eramet Marietta Inc. ("Eramet").
 - b. "Director" means the Director of the Ohio Environmental Protection Agency ("Ohio EPA") or his designee.
 - c. "Ferroalloys NESHAP" refers to the National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese, 40 CFR Part 63, Subpart XXX.
 - d. "Operation" refers to Defendant's manganese ferroalloys operation located at 16705 State Route 7, Marietta, Washington County, Ohio 45750.
 - e. "Order" refers to this Consent Order.
 - f. "Parties" mean Plaintiff, the State of Ohio, and Defendant Eramet Marietta Inc.
 - g. "Permit" means Final Permit to Install No. P0122503 issued by Ohio EPA.
 - h. "Person" means an individual, public or private corporation, business trust, estate, trust, partnership, association, federal government or any agency thereof, municipal corporation or any agency thereof, political subdivision or any agency thereof, public agency, interstate body created by compact, any other entity, and other officers, agents, employees, attorneys, and/or those in active concert or participation with any of them.
 - "State" means Plaintiff, the State of Ohio, including the Director, Ohio Environmental Protection Agency, or the Ohio Attorney General on behalf of the State, or any State entity.

 "Written" or "writing" means a paper copy or a saved, stored, or transmitted electronic copy.

II. JURISDICTION AND VENUE

2. The Court has jurisdiction over the Parties and the subject matter of this action under R.C. 2307.382 and R.C. 3704.06. The Complaint states a claim upon which relief can be granted. Venue is proper in this Court. Defendant shall not challenge the Court's jurisdiction to enter or enforce this Consent Order.

III. PARTIES BOUND

- 3. Defendant is a Delaware corporation licensed to conduct business for profit in Ohio since 1999 with its principal place of business at 16705 State Route 7, Marietta, Washington County, Ohio 45750.
- 4. This Order shall apply to and be binding only upon Defendant, and, to the extent consistent with Civ. R. 65(D), on its agents, officers, employees, contractors, assigns, successors in interest, and those persons acting in concert, privity, or participation with Defendant who receive actual or constructive notice of this Order whether by personal service, by public record filed in the county land record, or otherwise. Defendant shall provide a copy of this Consent Order to any successor in interest and to each key employee, consultant, or contractor employed to perform work referenced herein or to operate Defendant's Operation.
- 5. This Consent Order is in settlement and compromise of disputed claims, and nothing in this Consent Order is to be construed as an admission of any facts or liability.
- 6. If insolvency, bankruptcy, or other failure occurs, Defendant must pay the remaining unpaid balance of the total civil penalty.

IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

- 7. Plaintiff alleges in its Complaint that Defendant is responsible for violations of Ohio's air pollution control laws under R.C. Chapter 3704. Defendant denies all such allegations. Compliance with this Consent Order shall constitute full satisfaction of any civil liability of Defendant to Plaintiff for the claims alleged in Plaintiff's Complaint.
- 8. Nothing in this Consent Order, including the imposition of stipulated civil penalties for violations of this Consent Order, shall limit the authority of the State to:
 - a. Seek any legal or equitable relief or civil penalties from Defendant or any other appropriate person for any claims or violations not alleged in the Complaint;
 - Seek any legal or equitable relief or civil penalties from Defendant or any other appropriate person for claims, conditions or violations that arise after the entry of this Consent Order;
 - c. Enforce this Consent Order through a contempt action or otherwise seek relief for violations of this Consent Order; and/or
 - d. Take any future action against any appropriate person, including Defendant, to eliminate or mitigate conditions at the Operation that may threaten public health or welfare or the environment.
- 9. This Consent Order does not waive, abridge, settle, compromise, or otherwise impact any other claims in law or equity that the State may have against Defendant.
- 10. Except for the signatories to the Consent Order, nothing in this Consent Order shall constitute or be construed as satisfaction of civil liability, a covenant not to sue, and/or a release regarding the claims alleged, against any person not a signatory to this Consent Order for any liability such non-signatory(ies) may have arising out of matters alleged in the Complaint. The

State also specifically reserves its right to sue any entity that is not a signatory to this Consent Order.

- 11. This Consent Order is not a permit, or a modification of any permit, under any federal, State, or local laws or regulations. Nothing in this Consent Order shall relieve Defendant of its obligations to comply with applicable federal, state, or local statutes, regulations, rules, or ordinances, except as set forth herein. Defendant's compliance with this Consent Order shall be no defense to any action commenced pursuant to any such laws, regulations, or permits, except as set forth herein. The State does not, by consent to the entry of this Consent Order, warrant or aver in any manner that Defendant's compliance with any aspect of this Consent Order will result in compliance with provisions of R.C. Chapter 3704 or with any other provisions of federal, state, or local laws, regulations, rules, or permits.
- 12. Nothing herein shall restrict the right of Defendant to raise any administrative, legal, or equitable defense with respect to such further actions reserved by the State in this Section. However, with respect to the actions reserved by the State in this Section, Defendant shall not assert and/or maintain, any defense or claim of waiver, *res judicata*, collateral estoppel, issue preclusion, claim splitting, or other defenses based on any contention that Plaintiff's claims in any subsequent judicial or administrative proceeding could or should have been brought in this case.
- 13. This Consent Order shall not be construed to create rights in, or grant any cause of action to, any third party, not a party to this Consent Order.

V. PERMANENT INJUNCTION

14. Defendant is ordered and permanently enjoined to comply fully with R.C. Chapter 3704 and the rules thereunder.

- 15. Defendant is ordered and enjoined to do the following:
 - a. On or before July 15, 2017, October 15, 2017, and January 15, 2018, Defendant shall provide Ohio EPA with reports describing the progress made in achieving the conditions set forth in the remainder of this paragraph, as well as any difficulties encountered or new information gathered. Based on such information, the Parties may mutually agree to modify the scope or timing of any such condition, provided that no condition hereunder may be extended beyond June 30, 2018 without the approval of the Court;
 - b. On or before September 15, 2017, commence scrubber efficiency improvement trials for the submerged electric arc Furnace #12 (Emissions Unit ID P908) and provide written notice to Ohio EPA demonstrating that Defendant has commenced such trials;
 - c. On or before December 1, 2017, complete scrubber efficiency improvement trials for the submerged electric arc Furnace #12 (Emissions Unit ID P908) and provide written notice to Ohio EPA demonstrating that Defendant has completed such trials;
 - d. On or before April 15, 2018, complete trials for fugitive capture efficiency improvements for the submerged electric arc Furnace #12 (Emissions Unit IDs P908, F020, and F021) and provide Ohio EPA with updated copies of the applicable written plans identified in 40 C.F.R. § 63.1627(b)(1), including a process fugitive ventilation plan for shop building C2F, or provide written notice by the same date to Ohio EPA of Defendant's intent to cease operation of Furnace #12 by May 1, 2018;

- e. On or before May 15, 2018, complete construction for all fugitive capture efficiency improvements for the submerged electric arc Furnace #12 (Emissions Unit IDs P908, F020, and F021) and provide written notice to Ohio EPA demonstrating that Defendant has completed construction, or provide written notice by the same date to Ohio EPA of Defendant's intent to cease operation of Furnace #12 by June 1, 2018;
- f. On or before July 15, 2017, commence trials for either spray systems or improved fugitive capture hooding over the casting beds for the submerged electric arc Furnace #12 casting operation (Emissions Unit ID F008) and provide written notice to Ohio EPA demonstrating that Defendant has commenced such trials;
- g. On or before May 15, 2018, complete construction of the fugitive abatement system for the submerged electric arc Furnace #12 casting operation (Emissions Unit ID F008) and provide written notice to Ohio EPA demonstrating that Defendant has completed construction, or provide written notice by the same date to Ohio EPA of Defendant's intent to cease operation of the Furnace #12 casting operation by June 1, 2018;
- h. On or before October 31, 2017, complete and submit to Ohio EPA in writing the process fugitive ventilation plan for shop building C3F, describing the improved fugitive capture system for the submerged electric arc Furnace #18 casting operation (Emissions Unit ID F009) and the metal transfer station (Emissions Unit ID F022) and metal oxygen refining unit ("MOR operation") (Emissions Unit ID F012);

- i. On or before April 15, 2018, complete construction of the improved capture system for the submerged electric arc Furnace #18 casting operation (Emissions Unit ID F009) and the metal transfer station (Emissions Unit ID F022) and MOR operation (Emissions Unit ID F012) and provide written notice to Ohio EPA demonstrating that it has completed construction, or provide written notice by the same date to Ohio EPA of Defendant's intent to cease operation of the Furnace #18 casting operation and MOR operation by May 1, 2018;
- j. On or before October 15, 2017, complete and submit to Ohio EPA in writing a conceptual plan for the evaluation of the mercury content and resulting emissions from alternative raw material sources for silicomanganese production;
- k. On or before October 15, 2017, complete and submit to Ohio EPA in writing a conceptual plan for the evaluation of the mechanisms for polycyclic aromatic hydrocarbon ("PAH") formation in silicomanganese and ferromanganese production operations;
- On or before May 1, 2018, complete and submit to Ohio EPA in writing a final evaluation of the mercury content and resulting emissions from alternative raw material sources for silicomanganese production;
- m. On or before May 1, 2018, complete and submit to Ohio EPA in writing a final evaluation of the mechanisms for PAH formation in silicomanganese and ferromanganese production operations;
- n. On or before June 30, 2018, demonstrate compliance with all applicable emissions standards required by the Permit, through its incorporation of 40 CFR §
 63.1623, for all applicable equipment contained within Defendant's Operation.

Unless Defendant notifies Ohio EPA that applicable equipment has ceased operation as provided above in this Paragraph (Paragraph 15, subparagraphs d, e, g, or i), Defendant shall provide written notice to Ohio EPA demonstrating that it has completed post-construction emissions testing and achieved compliance on or before June 30, 2018 and submit a copy of the testing to Ohio EPA within 30 days of Defendant's completion of the testing; and

o. Except for any specific deadline ordered and enjoined above in this Paragraph (Paragraph 15), Defendant is further ordered and enjoined to comply with the Ferroalloys NESHAP by June 30, 2018.

VI. CIVIL PENALTY

- 16. Under R.C. 3704.06(C), Defendant is ordered and enjoined to pay a civil penalty of Ten Thousand Dollars (\$10,000.00), subject to the provisions set forth in Paragraphs 17 through 18. Full payment shall be made within thirty (30) days of entry of this Consent Order. Such payment shall be made by delivering to Scott Hainer, Paralegal, or his successor, Office of the Attorney General, 30 E. Broad St., 25th Floor, Columbus, Ohio 43215, a certified check for the appropriate amount, payable to the order of "Treasurer, State of Ohio."
- 17. If full payment is not paid as required in Paragraph 16 above, the remaining unpaid balance plus applicable interest under R.C. 131.02(D), less any amount already paid under this Order, shall become immediately due and owing. Any delinquent payments shall accrue interest at the maximum statutory rate under R.C. 5703.47 calculated from the Effective Date of this Order.
- 18. The State reserves the right to file a certificate of judgment lien against Defendant for the remaining unpaid balance of the total civil penalty, plus applicable interest per Paragraph 17

above, if the full payment is not paid according to the schedule in Paragraph 16 above. Defendant shall not be permitted to claim a force majeure as an excuse for any untimely payment or partial payment of an amount less than that specified in Paragraph 16.

VII. STIPULATED PENALTIES

- 19. If Defendant fails to comply with any of the requirements of Paragraph 15 of this Order, Defendant shall immediately and automatically be liable for and shall pay stipulated penalties under the following schedule:
 - i. Defendant shall pay three hundred dollars (\$300.00) per day for each day any requirement of this Consent Order is violated up to the first thirty (30) days of violation;
 - ii. For each day any requirement of this Consent Order is violated between thirty (30) days and ninety (90) days of violation, Defendant shall pay six hundred dollars (\$600.00) per day;
 - iii. For each day any requirement of this Consent Order is violated greater than (90) days of violation, Defendant shall pay one thousand dollars (\$1,000.00) per day.
- 20. Stipulated penalties due under this Consent Order shall be immediately due and owing without demand by the State and shall be paid by certified check or money order, payable to "Treasurer, State of Ohio" and delivered to Scott Hainer or his successor, Paralegal, at the Office of the Ohio Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215.
- 21. Defendant's payment and Plaintiff's acceptance of such stipulated penalties under this Section shall not be construed to limit Plaintiff's authority, without exception, to seek: 1) additional relief under R.C. Chapter 3704, including civil penalties under R.C. 3704.06; 2) judicial enforcement of this Order for the same violations for which a stipulated penalty was paid; or 3) additional civil, criminal, or administrative sanctions or remedies for violations of

applicable laws or rules. Further, payment of stipulated penalties by Defendant shall not be an admission of liability by Defendant.

VIII. POTENTIAL FORCE MAJEURE

- 22. With respect to the operation of Section VII (Stipulated Penalties) and in any action by Plaintiff to enforce any of the provisions of this Consent Order, except for any provision in Section VI (Civil Penalty) above, Defendant may raise that it is entitled to a defense that its conduct was caused by reasons entirely beyond its control such as, by way of example and not limitations, acts of God, strikes, acts of war or civil disturbances. While Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by Defendant and Plaintiff that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an enforcement or collection action, if any, is commenced by the Plaintiff. At that time, Defendant will bear the burden of proving that any delay was or will be caused by circumstances entirely beyond the control of Defendant. Unanticipated or increased costs associated with the implementation of any action required by this Consent Order, or changed financial circumstances, shall not constitute circumstances entirely beyond the control of Defendant or serve as a basis for an extension of time under this Consent Order.
- 23. Defendant shall be prohibited from raising any force majeure defense if Defendant fails to notify Ohio EPA in writing as set forth in this Paragraph of the reasons upon which the purported defense is based. Defendant shall provide such written notice to Ohio EPA within fourteen (14) days from when Defendant knew, or by the exercise of due diligence should have discovered such reasons, describing in detail the anticipated length of delay, the precise cause or causes of delay, the measures taken and to be taken by the Defendant to prevent or minimize the

delay, and the timetable by which measures will be implemented. Defendant will adopt all reasonable measures to avoid or minimize such delay. It shall be the option of Plaintiff to construe the failure to provide timely notice as a waiver of Defendant's right to request an extension of its obligations under this Consent Order based on such incident. An extension of one date based on a particular incident does not mean that Defendant qualifies for an extension of a subsequent date or dates. Defendant must make an individual showing of proof regarding each incremental step or other requirement for which an extension is sought. Acceptance of this Consent Order with a Potential Force Majeure Clause does not constitute a waiver by Defendant of any rights or defenses it may have under applicable law.

IX. SUBMITTAL REQUIREMENT

24. Unless otherwise specified in this Order, all notices, designs, evaluations, plans and/or other documents of any kind that are required to be submitted to Ohio EPA pursuant to this Order shall be sent to: Ohio Environmental Protection Agency, Southeast District Office, Division of Air Pollution Control, ATTN: Racheal Davies (racheal.davies@epa.ohio.gov), or her successor, 2195 Front Street, Logan, Ohio 43138; and Ohio Environmental Protection Agency, Central Office. Division of Air Pollution Control, ATTN: Jim Kavalec (jim.kavalec@epa.ohio.gov), or his successor, 50 W. Town St, Suite 700, P.O. Box 1049, Columbus, Ohio 43216.

X. COMPLIANCE NOT DEPENDENT ON GRANTS OR LOANS

25. Performance of the terms of this Consent Order by Defendant is not conditioned on the receipt of any private, federal or state grants, loans, and/or funds. In addition, Defendant's performance is not excused by failing to obtain, or any shortfall of, any private, federal or state grants, loans and/or funds or by the processing of any applications for the same.

XI. EFFECT OF CONSENT ORDER

26. This Consent Order does not constitute authorization or approval of the construction, installation, modification, or operation of any air contaminant source, source operation, or any building, structure, facility, facility component, operation, installation, disposal or storage site, other physical facility, or real or personal property that emits or may emit any air pollutant or air contaminant not previously approved by Ohio EPA, under the Clean Air Act, or by a permitting authority or its delegates. Approval for any such construction, installation, modification, or operation shall be by permit issued by Ohio EPA or other such permits as may be required by applicable federal, state, or local laws, rules, or regulations.

XII. MODIFICATION

27. No modification shall be made to this Consent Order without the written agreement of the Parties and the Court.

XIII. MISCELLANEOUS

- 28. Any acceptance by the State of any payment, document, or other work due subsequent to the time that the obligation is due under this Consent Order shall not relieve Defendant from the obligations created by this Consent Order.
- 29. Defendant shall inform Ohio EPA of any change in its Registered Agent's address and business addresses or telephone numbers, or the cessation of the business that is the subject of this action.

XIV. RETENTION OF JURISDICTION

30. This Court shall retain jurisdiction for the purpose of administering and enforcing this Consent Order. Termination of any or all of the provisions of this Consent Order may be granted upon a joint motion of the parties.

XV. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

- 31. Under Rule 58 of the Ohio Rules of Civil Procedure, upon signing this Consent Order by the Court, the Clerk is directed to enter it upon the journal. Within three (3) days of entering the judgment upon the journal, the Clerk is directed to serve upon all Parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Civ.R. 5(B) and note the service in the appearance docket. The failure of the Clerk to serve notice does not affect the validity or effectiveness of this Consent Order.
- 32. The Parties agree and acknowledge that final approval by Plaintiff and Defendant and entry of this Consent Order is subject to notice of lodging of the Consent Order, opportunity for public comment, and the consideration of any public comments. Plaintiff and Defendant reserve the right to withdraw this Consent Order based on comments received during the public comment period.

XVI. EFFECTIVE DATE

33. This Consent Order shall be effective upon the date of its entry by the Court.

XVII. COURT COSTS

34. Defendant is ordered to pay all court costs of this action. Defendant is also ordered to pay the costs incurred by the Ohio EPA for the publication of notice of the Consent Order in Ohio EPA's Weekly Review and a local newspaper of general circulation. Defendant shall pay the costs associated with publication by delivering a certified check payable to: "Treasurer, State of Ohio" and with a notation indicating that the payment relates to publication costs, within thirty (30) days from the date it receives notice from Ohio EPA.

XVIII. AUTHORITY TO ENTER INTO THE CONSENT ORDER

35. Each signatory represents and warrants he or she has been duly authorized to sign this document and is fully authorized to agree to its terms and conditions, and, in the case of a person signing on behalf of a corporate entity, may so legally bind the corporate entity to all terms and conditions in this document.

JUDGE	DATE
IT IS SO ORDERED.	

APPROVED AND AGREED TO BY:

MICHAEL DEWINE OHIO ATTORNEY GENERAL

AARON S. FARMER (0080251)

Assistant Attorney General

Environmental Enforcement Section

30 East Broad Street, 25th Floor

Columbus, Ohio 43215

Telephone: (614) 466-2766 Facsimile: (614) 644-1926

Aaron.Farmer@OhioAttorneyGeneral.gov

Attorney for Plaintiff, State of Ohio

ERAMET MARIETTA INC.

Laure Guillot

Chief Executive Officer Eramet Marietta Inc.

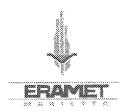
JOHN REGO (0039774)

JONES DAY

901 Lakeside Avenue Cleveland, Ohio 44114

Telephone: (216) 586-7542 Facsimile: (216) 579-0212

Attorney for Defendant, Eramet Marietta Inc.



April 28, 2017

VIA OVERNIGHT MAIL AND EMAIL

Honorable Scott Pruitt, Administrator U.S. Environmental Protection Agency USEPA Headquarters
William Jefferson Clinton Building 1200 Pennsylvania Avenue, N.W. Room 3000
Washington, DC 20004
Pruitt Scott@EPA.gov

Mr. Steffan Johnson
Leader, Measurement Technology Group
Office of Air Quality Planning and Standards
U.S. Environmental Protection Agency
(Mail Code E143-02)
Research Triangle Park, NC 27711
Johnson.Steffan@epa.goy

Re: Request for Approval of Alternative to Test Method; National Emission Standards for Hazardous Air Pollutants: Ferroalloys Production, 82 Fed. Reg. 5401 (January 18, 2017)

Dear Administrator Pruitt:

Pursuant to 40 C.F.R. §63.7(e)(2)(ii), Eramet Marietta Inc. ("EMI") hereby respectfully requests the Administrator's approval of an alternative to the performance test method specified at 40 C.F.R. § 63.1625(d)(1) for conducting shop building opacity observations at EMI's existing ferroalloy production facility in Marietta, Ohio. As explained in greater detail below, EMI requests approval to use EPA Test Method 9 (as set forth in 40 C.F.R. Part 60 Appendix A-4) in lieu of the ASTM D7520-16.

Introduction

EMI is subject to the National Emissions Standards for Hazardous Air Pollutants: Ferroalloys Production ("Ferroalloys NESHAP"), 40 C.F.R. Subpart XXX, promulgated at 80 Fed. Reg. 37366 (June 30, 2015), as amended at 82 Fed. Reg. 5401 (January 18, 2017). Under 40 C.F.R. § 63.1625(d)(1) of the Ferroalloys NESHAP, compliance with conducting shop building opacity standards is to be demonstrated using ASTM D7520-16, also referred to by EPA as the Digital Camera Opacity Technique or "DCOT." The applicable opacity standard is set forth at 40 C.F.R. § 63.1623(b)(3):

Unless you meet the criteria of §63.1623(b)(3)(iii), you must not cause the emissions exiting from a shop building to exceed an average of 8 percent opacity over a furnace or MOR process cycle.

ERAMET MARIETTA, INC. 16798 STATE ROLLE? SOUTH MARIETTA, OH 45750 TEL: 740 374 1660

- (i) This 8 percent opacity requirement is determined by averaging the individual opacity readings observed during the furnace or MOR process cycle.
- (ii) An individual opacity reading shall be determined as the average of 24 consecutive images recorded at 15-second intervals with the opacity values from each individual digital image rounded to the nearest 5 percent.
- (iii) If the average opacity from the shop building is greater than 8 percent opacity during an observed furnace process cycle, the opacity of two more furnace process cycles must be observed within 7 days and the average of the individual opacity readings during the three observation periods must be less than 8 percent opacity.
- (iv) At no time during operation may the average of any two consecutive individual opacity readings be greater than 20 percent opacity.

Under 40 C.F.R. §63.7(e)(2)(ii), the Administrator may approve the use of "an intermediate or major change or alternative to a test method (see definitions in §63.90(a)), the results of which the Administrator has determined to be adequate for indicating whether a specific affected source is in compliance...." The request generally follows the framework prescribed in 40 C.F.R. § 63.8(f)(4) for requests to use an "alternative test method." Under § 63.8(f)(2), the Administrator may approve "Alternatives to the American Society for Testing and Materials (ASTM) test methods or sampling procedures specified by any relevant standard..."

However, EMI notes that this framework is not strictly applicable to a request to use EPA's long-established Method 9, because EPA has already validated the requested method for use in conducting the sort opacity observations involved in this request. See 40 C.F.R. § 63.2 ("Alternative test method means any method of sampling and analyzing for an air pollutant that is not a test method in this chapter. . ."). As a consequence, certain aspects of the alternative test method application — most notably, compliance with the alternative test method validation procedures of 40 C.F.R. § 63.7(f) — do not make sense in the context of this request to use a previously approved and widely used EPA test method. As EPA has stated in the context of a proposed alternative test method, the "principal criterion" is whether a proposed method is at least as stringent as the specified method:

The EPA Administrator or his authorized representative must be satisfied that the test method alternative will produce results adequate to determine compliance. In other words, the EPA Administrator or authorized representative, such as a State having delegated authority, generally must be assured that a test method change provides a determination of compliance status at the same or greater stringency as the test method specified in the applicable regulation.

¹ Since this request involves the use of an entirely different opacity test method – EPA Method 9 – than that specified in the Ferroalloys NESHAP, it might also be treated as a "major change to test method," as defined in 40 C.F.R. § 63.90(a).

72 Fed. Reg. 4257, 4261 (January 30, 2007).² In this case, EPA has already reaffirmed that Method 9, which thousands of facilities across the United States currently use to demonstrate compliance with opacity standards, and which EPA has previously authorized EMI to use to measure the precise emissions involved in this request, is as accurate as ASTM D7520-16 in measuring opacity. "[W]e believe, based on validation studies that EPA Method 9 and [ASTM D7520-16] provide comparable opacity results. . . ." 82 Fed. Reg. 5401, 5404-05 (January 18, 2017); ³ see also, e.g., "Summary of Public Comments and Responses on the Proposed Reconsideration (81 FR 45089, July 12, 2016) of the Final Rule (80 FR 37366, June 30, 2015)" ("Response to Comments"), EPA-HQ-OAR-2010-0895-0341, at 6 (disagreeing with commenter's suggestion that "Method 9 is less accurate than DCOT" and stating that "both methods provide comparable measurements of opacity").

Indeed, EPA has treated Method 9 as the benchmark against which the accuracy of ASTM D7520-16 should be measured, describing ASTM D7520-16 as "an acceptable alternative to EPA Method 9..." *Id.* at 5407. The Ferroalloys NESHAP actually provides for the use of EPA Method 9 to certify the accuracy of ASTM D7520-16. See 40 C.F.R. § 63.1656(b)(7).

Information in Support of This Request

 $\S63.8(f)(4)(i)$: Submit request at least 60 days before testing to demonstrate compliance with a standard.

EMI requests approval to use Method 9 to demonstrate compliance with the opacity standard set forth at 40 C.F.R. § 63.1623(b)(3), beginning June 30, 2017. This request is being submitted more than 60 days before the applicable testing will begin.

§63.8(f)(4)(ii): Description of proposed alternative monitoring system which addresses the four elements contained in the definition of monitoring in §63.2 and information justifying the request for an alternative monitoring method.

A. Name, location, and affected units

Eramet Marietta Inc. 16705 State Route 7 Marietta, OH45750-0299

² See also "Requests for Approval of Alternatives/Modifications to Test Methods and Testing Procedures," EMC GD-022R4, Air Quality Assessment Division, OAQPS, EPA (April 21, 2014) ("EMC Guidance") at 2 (basic principles for review of request for major change to test method are (a) whether alternative method "will produce results adequate for the Administrator's determination of compliance" and (b) whether the change will "affect the stringency of the applicable regulation").

³ EPA previously mischaracterized EMI's August 25, 2015 petition for reconsideration of the requirement to use ASTM D7520-13 as a "request to allow EPA Method 9 as an alternative method for determining compliance." 82 Fed. Reg. at 5405. EMI's petition was expressly submitted pursuant to Section 307(d) of the Clean Air Act, 42 U.S.C. § 7607(d), and not as request for an alternative test method, whose provisions are not directly applicable to such a request.

B. Elements of Monitoring Under §63.2

1. Indicator(s) of performance

EPA Method 9 provides direct measurement of opacity by trained and certified readers.

2. Measurement techniques

EPA Method 9 uses direct visual observation of visible emissions opacity by trained and certified readers.

3. Monitoring frequency

Consistent with the requirements of 40 C.F.R. §63.1623(b)(3), EPA Method 9 collects observations at 15-second intervals over the course of the prescribed monitoring cycle.

4. Averaging time

Consistent with the requirements of 40 C.F.R. §63.1623(b)(3), EPA Method 9 bases individual opacity readings based on the average of 24 consecutive observations collected at 15-second intervals.

C. Information Justifying the Request

1. Method 9 produces results adequate for the determination of compliance.

Method 9 is a Category A method approved by EPA Air Emission Measurement Center, promulgated in the Federal Register and codified in the Code of Federal Regulations.

Method 9 is a proven method and has been used since the mid-1970's at thousands of industrial facilities to demonstrate compliance with opacity standards established under state and federal air pollution law. EPA itself has asserted that Method 9 offers the same measurement capability as ASTM D7520 in the context of this rule: "We also agree that ASTM D7520 provides requirements adequate to read roof vents and those requirements are parallel to those of EPA Method 9. Therefore, there are no real differences in capability there." Response to Comments at 5 (emphasis added).

EPA recognized that Method 9 would be adequate for the determination of compliance when it asserted that Ohio EPA could use Method 9, and need not purchase DCOT, to independently assess EMI's compliance with the ferroalloy NESHAP's opacity standards "[State Agencies] will also be able to conduct EPA Method 9 readings which can serve as Credible Evidence if there are issues with the opacity being reported." Id. at 11 (emphasis added).

Similarly, Method 9 is already accepted by EPA Region 5 as an alternative to DCOT to demonstrate compliance in an enforcement context, as evidenced by the proposed consent decree lodged with the U.S. District Court for the Eastern District of Wisconsin in the enforcement

action captioned, *United States of America v. Maynard Steel Casting Company*, Civil Action No. 2:17-cv-00292. Section 2.2 of Appendix C to the proposed consent decree expressly provides the respondent with the option of using Method 9 in lieu of DCOT.

- 2. Use of Method 9 will not affect the stringency of the applicable regulation.
- 2.1. Ferroalloys NESHAP opacity standard was developed using Method 9

While EMI continues to believe that DCOT is not a reliable method to assess compliance with the roof vent opacity standards in the Ferroalloys NESHAP, EPA's own statements establish that Method 9 is at least as exact and rigorous as DCOT. Indeed, it would be impossible for Method 9 to decrease the stringency of the opacity standard in the Ferroalloys NESHAP, since that standard was developed, and presented in EPA's October 6, 2014 proposed rule, based on the express expectation that it would be enforced via Method 9. In that proposal, the opacity standard was designed to match Method 9's data collection protocol, with observations recorded at 15-second intervals (rounded to the nearest five percent) and averaged over six-minute blocks, and DCOT was presented only as an alternative to Method 9. Since EPA did not alter its Method 9-based opacity standard when replacing Method 9 with DCOT in the final rule, there is no rational basis for concluding that use of Method 9 would reduce the stringency of that standard.

2.2. Use of Method 9 does not affect opacity monitoring exactness

DCOT has been developed to match the results of visual observation through Method 9. The digital camera used at a facility must be jointly certified with the analysis software by comparing DCOT results to visual observations made by certified Method 9 readers. See ASTM D7520-16 paragraph 9.2. "[T]here is no basis that the Agency is aware of for the statement that EPA Method 9 readers are inaccurate after 6 minutes and the commenter did not provide references to support that claim. We believe that the EPA Method 9 collaborative studies demonstrate that readers can observe for significantly longer periods of time on several types of sources." Response to Comments at 5.

2.3. Use of Method 9 does not affect opacity monitoring rigor

Method 9 procedures are applied by certified opacity readers. Certified readers are trained by Smoke schools, Smoke schools are quality controlled by EPA. Certified readers are trained every 6 months to keep their certification.

2.4. Use of Method 9 does not affect opacity monitoring objectivity

DCOT imposition is based on a misconception, the belief that DCOT is more objective because it supposedly removes human subjectivity in determining opacity: "With respect to the comments requesting supporting data to support EPA's position that DCOT provides more objective and better substantiated readings. We based this assessment on the fact that DCOT provides a record of every opacity observation and the opacity is measured using software algorithms to determine the contrast between the opacity and the background. We believe that

using software algorithms provides a consistent and objective determination of opacity, and removes any bias by the observer. Our position is that both methods provide comparable measurements of opacity, however DCOT provides a superior, objective record for its opacity measurements." Response to Comments at 6.

DCOT does not, remove human intervention: ASTM D7520-16 identifies multiple points where human judgment (and therefore possibilities for bias) is involved: "analysis software-software that when combined with a defined operating environment: (a) inputs images captured by the Digital Still Camera image capture devices; (b) produces opacity measurements from the combination of human interaction, open or proprietary calculations and algorithms and image content viewing; (c) and then output said opacity measurement along with Analysis Software's configuration, image source documentation and other environmental parameter." (Section 3.2.1) (emphasis added). "DCOT operator-refers to the human operating the DCOT system who records the digital still images with the Digital Still Camera and then determines plume opacity with the Analysis Software." (Section 3.2.4) (emphasis added). "A Digital Still Camera is used to capture a set of digital images of a plume against a contrasting background. Each image is analyzed with software that determines plume opacity by comparing a user defined portion of the plume image where opacity is being measured in comparison to the back ground providing the contrasting values." (Section 4.1) (emphasis added).

DCOT seemed to be preferred by EPA for being less dependent on human decision and, therefore, less subjective. DCOT does not remove subjectivity: the DCOT operator, in its role as software analyst must decide which portion of the plume to choose on the pictures and which portion of the picture represents the background; therefore, the analyst has to make two subjective decisions where the Method 9 certified reader makes one. Moreover the DCOT model offered by Virtual Technology LLC does not eliminate intervention by an employee of the facility, which seems to be a motivation of EPA in imposing DCOT. The integrity of EMI's Method 9 Certified Readers has not been questioned in all the years of EMI's use of Method 9. In any event, the Virtual Technology model requires that the customer conducts QA/QC of all pictures and flags out pictures with errors, which maintains a high level of human intervention.

3. EMI is requesting the use of Method 9 for compelling reasons.

3.1. DCOT has significant deficiencies.

DCOT IS UNPROVEN FOR ITS INTENDED USE: DCOT is unproven for the use specified in the Ferroalloys NESHAP. As described in detail in prior submissions, see EPA-HQ-OAR-2010-0895-320, 324, 326, 329, and 331-334, DCOT's suitability for the opacity measurements required in the Ferroalloys NESHAP was not validated by EPA following its own protocols. As a consequence, DCOT is being imposed on the manganese ferroalloys industry as a compliance test method although the technology and associated procedures did not undergo appropriate assessment during the rule development process.

DCOT SOFTWARE IS NOT FULLY DEVELOPED FOR ITS INTENDED USE: DOCS II, the DCOT software sold by Virtual Technology LLC, the sole vendor in the market, is not fully developed and it is not ready to meet the requirements of the Ferroalloys NESHAP. ASTM D7520-16 stipulates in paragraph 7.1., "The DCOT system is formulated into three distinct and severable

components: (1) Digital Still Camera, (2) Analysis Software and its associated computing platform, and (3) the output function." Section 7.1.3. describes the output function. In an email dated March 14, 2017, Virtual Technology's Shawn Dolan confirmed that no Ferroalloys NESHAP output function exists in a certified version of DCOS II. In a correspondence dated April 18, 2017, in response to EMI's March 7, 2017 Request for Quotation ("RFQ"), Mr. Dolan confirms that the output function includes the averaging calculations. He also writes: "the report desired for the NESHAP referenced will have to be generated, tested and certified. This output creation and certification is a long lead time item ... as the entire system will require recertification to produce the desired output." Note that in an earlier correspondence dated March 15 2017 in response to EMI's question about DCOS II readiness "can one extract from the analysis software a table with each single opacity value [...]to calculate averages", Mr Dolan had answered: "YES/NO, can extract into excel but averages calculated outside of DCOS II are not DCOT Output and violate certification, e.g. "Output" as defined in ASTM d7520-16,7.1.3."

DCOT SOFTWARE DEVELOPMENT CANNOT BE COMPLETED WITHOUT DETAILED SPECIFICATIONS FROM THE REGULATOR: DCOT's sole supplier is not able, based on the NESHAP rules, to program this part of the software. As recently as April 18, 2017, Mr. Dolan wrote: "the current NESHAP does not define the averaging report well enough to create a final output function to support the report and certify the resultant configuration." He also wrote: "The specific report and its associated certification however is dependent on proper definition which is controlled by [EMI] and the regulators associated."

3.2. Meaningful improvements by using Method 9.

METHOD 9 ALLOWS IMMEDIATE CORRECTIVE ACTIONS: Method 9 certified readers in the facility who are also knowledgeable about the process, can have an immediate interaction with workers and supervisors operating the equipment. If an opacity observation indicates a trend toward exceeding the limits, quick action can be taken to resolve technical issues. This interaction is not achievable with a remote DCOT analyst that serves several customers, has no knowledge of the ferroalloys production process, and is not in real-time communication with operators. Dedicating a DCOT analyst at Virtual Technology to take charge of this interaction in real-time would be costly (if achievable at all) and far less effective than using the Method 9 certified reader.

Assuming DCOT was a proven technology for its intended use — which EMI still disputes — DCOT would be of no use to proactively respond to excessive fugitive emissions with a turnaround time of 45 minutes (time given by the sole vendor to EPA). EPA asserts in the Response to Comments: "The time estimate for performing and analyzing the images using DCOT was estimated by the vendor to take approximately 45 minutes depending on the contrasting background. We believe this is comparable to the amount of time required to calculate the 6-minutes average using EPA Method 9. The facility can always have a staff EPA Method 9 reader conduct informal readings and address problems in a timely manner if there are issues with the timeliness of DCOT opacity results". Id. at 14. EPA's statement inviting the use of a Method 9 reader is both a recognition that Method 9 is adequate for opacity reading and that Method 9 has a faster turnaround time. EMI's own experience in Method 9 reading throughout 2016 shows that Method 9 readers have a far quicker turnaround time than 45

minutes. DCOT as it works today is merely a tool for sanctions with no benefit for the environment.

METHOD 9 ALLOWS QUICK ADJUSTMENTS TO UNPREDICTABLE CHANGE IN MONITORING CONDITIONS: A method 9 certified reader can compensate for local weather issues such as change in wind velocity; such circumstances cannot be ruled out when observations are to be made over 60 to 120 minutes process cycles. A DCOT analyst cannot since he would base his weather assessment on data collected from the nearest National Weather Service Database in Parkersburg, Mid-Ohio Valley Regional Airport.

3.3. Method 9 provides a cost effective opacity monitoring method

Method 9 is cost effective while DCOT is an unnecessary regulatory burden, without any real benefit to the environment, that if maintained would constitute an economic hindrance to the ferroalloys industry for the following reasons:

DCOT'S HIGH UNPREDICTABLE INFRASTRUCTURE COST: DCOT'S sole supplier asserted in an email to EMI dated January 26, 2016 that EMI could not use a digital camera on a tripod to conduct opacity testing under the Ferroalloys NESHAP. Therefore, multiple fixed cameras mounted on poles or buildings would have to be installed to cover EMI's three shop buildings covered by the rule. In light of the unreasonable fee Virtual Technology LLC intended to charge just to respond to EMI's RFQ, EMI undertook a preliminary survey with a specialist well-versed with Method 9 and digital camera technology. The survey helped in determining camera locations that would comply with requirements for slant angle, distance, and sun angle over each process cycle throughout each year's 365 days for each of its 3 process buildings. Assuming observations are limited to morning sun angles, the preliminary cost estimate is a minimum of \$261,000, assuming a wired solution so as to secure a reliable electricity supply and fiber optic cable for reliable camera control and data transfer. The cost would be doubled if regulators require the capability to conduct observations during both the morning and afternoon. This cost was not reflected in the Ferroalloys NESHAP, and is not required with the use of Method 9.

DCOT'S UNPREDICTABLE IMPLEMENTATION COSTS: EMI estimates that the cost to implement DCOT will be in the range of \$410,000 per year if observations are limited to mornings, and \$671,000 per year if regulators expect observations to be made mornings or afternoon alike. This estimate does not account for the time that EMI's employees would have to spend on the implementation work to coordinate the project. Likewise this estimate does not account for the cost of obtaining system certification per ASTM D7520-16, which is a complete unknown. This estimate is based on the price list given by Virtual Technology in July 2015. It is worth outlining that only after EPA published its final action on EMI's petition for reconsideration, did the sole DCOT supplier inform EMI that these prices no longer applied and that the vendor was no longer publishing a price list. Finally, these estimates are based on EMI's own preliminary evaluation of the Output software development cost that will be priced by the supplier at \$250/hour once the specifications have been clearly defined for the programming to start. This cost is far in excess of what is required with the use of Method 9.

DCOT'S UNPREDICTABLE OPERATING COSTS: EPA's support for the use of DCOT is based, at least in part, on a significant underestimate of its cost to implement. "With regard to the cost

of DCOT, we estimated in the final rule that the cost of implementing the DCOT system would be approximately \$200,000 per year for the source category with weekly readings. However these costs decrease to about \$90,000 per year for the source category if the facilities do monthly readings per furnace building. We believe that this is a reasonable cost to ensure the process fugitive emissions are effectively captured." Response to Comments at 17.

EMI anticipates that the annual cost will far exceed EPA's estimate. EMI calculates that the operating costs for DCOT, if based on the 2015 Virtual Technology price list, will be in the range of a minimum of \$186,000 per year assuming (i) weekly observations and (ii) no need to repeat the weekly tests due to adverse and unpredictable weather conditions that would interrupt an observation already started. If the observations were reduced to once per month the estimated cost is in the range of a minimum of \$50,000 per year with the same assumptions. It is important to outline, however, that the DCOT sole vendor no longer publishes a price list and has indicated the 2015 price list is no longer applicable. This estimated annual DCOT cost does not include necessary EMI personnel costs. The EMI personnel costs to perform opacity readings will remain the same as for Method 9, since the time that EMI's employees will have to allocate to the collection of opacity images for DCOT is at least as high as when conducting Method 9 observations. The Virtual Technology DCOT model requires that the OA/QC responsibility remains with the customer, who must review all pictures and opacity results. See also ASTM D7520-16 in 3.2.6: "All of the digital images obtained by a DCOT system shall be reviewed by a qualified human DCOT operator to assess if the digital images are acceptable (for example no obvious error in the digital images)." In addition, EMI will have to bear the cost to ensure surveillance and maintenance of the cameras, to keep them clean of any obstructions and to check that they have not been misaligned or damaged by adverse weather conditions.

EPA predicted "We also believe that more state and local rules will require DCOT for the determination of opacity, which will provide incentive for competitors to enter the market place" response to comments at 14. It is worth outlining that in the 2 years since the Ferroalloys NESHAP rules were published, no competitor to Virtual Technology has emerged that would allow EMI to negotiate prices for DCOT implementation and operation.

D. Other Agency Contacts

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Chief, Division of Air Pollution Control
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bob.hodanbosi@epa.ohio.gov

Conclusion

The opacity standard in the Ferroalloys NESHAP was developed with the express expectation that it would be enforced via Method 9, just as comparable emission standards have been and are enforced at facilities throughout the United States. In specifying DCOT in the final rule, EPA did not identify any unique characteristics of fugitive particulate emissions from ferroalloys production that rendered Method 9 unsuitable or unreliable for enforcing the rule's opacity standard. Indeed, to certify DCOT for use at EMI's facility in accordance with ASTM standards, EMI would need to demonstrate that DCOT accurately replicated Method 9 measurements. As EPA continues to recognize as valid, reliable test method for enforcement of opacity standards like the standard in the Ferroalloys NESHAP, Method 9 clearly satisfies the criteria set forth in EMC GD-022R4 for approval as an alternative test method.

Respectfully submitted,

Laure Guillot
Chief Executive Officer

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WWW.MARIETTATIMES.COM

Tuesday, April 25, 2017

PUBLIC NOTICE
The following matters are the subject of this public notice by the Ohio Environmental Protection Agency. The complete public notice, including any additional instructions for submitting comments, requesting information, a public hearing, or filing an appeal may be obtained at http://www.epa.ohio.gov/tions.aspx or Hearing Clerk, Ohio EPA, 50 W. Town St. P.O. Box 1049, Cofumbus, Ohio 43216, Ph. 614-644-3037 email: HClerk@epa.ohio.gov

Proposed Consent Order Eramet Marietta Inc. 16706 St. Rite 7, Marietta, OH 45750 Date of Action 04/20/2017
The State of Ohio has entered into a proposed Consent Order with the company above to resolve the State of Ohio's complaint filed in the Washington County Court of Common Pleas case number 170787 on 04/20/17 for violations of R.C. Chapter 3704 and 40 CFR 63, Subpart XXX, National Emission Standards for Hazardous Air Pollutants for Fernoalloys Production: Fernoalloys Production: Fernomanganese and Silicomenganeses. The proposed Consent Order requires Eramet to submit a process fugitive ventilation plan and to implement control measures such that by 6/30/18 Eramet will demonstrate compliance with all applicable requirements of 40 CFR 63, Subpart XXX, and pay a \$10,000 civil penalty.

Copies of the proposed Consent Order can be obtained from the Ohio EPA by contacting Michael Hopkins at 814-844-3611, mike.hopkins@epa.ohio.gov or by writing to Ohio EPA-DAPC, 50 W Town St, Ste 760, PO Box 1049, Columbus, OH 43216.

Written comments should be submitted to Ohio EPA at the address above by 5:00PM 5/26/17. Both the State of Ohio and Defendant reserve the right to withdraw or after the proposed Consent Order based on comments received during the public comment period.

April 25, 2017-11-Tues.

From: joanna.foust@daimler.com [joanna.foust@daimler.com]

Sent: 4/28/2017 12:38:22 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Daimler Meeting Request

Good morning Mandy (and happy Friday!)-

I understand yesterday's meeting with the Administrator at the Auto Alliance went well. My boss here in the DC office and our President of Mercedes-Benz USA attended.

I was wondering if you had some time next week or second week of May to meet with me, Jake Jones (head of our DC office), and Bill Craven (General Manager-Regulatory Affairs)? Besides Mercedes-Benz, Daimler is the parent company of Daimler Trucks North America (Freightliner Trucks, Detroit, Thomas Built Buses, Western Star Trucks).

Thanks so much for your consideration of this meeting request.

Joanna Foust General Manager--Federal Affairs **Daimler North America Corp.** 1717 Pennsylvania Avenue, NW Suite 825 Washington, DC 20006 ph: 202-649-4506

pn: 202-649-4506 cell: 202-281-9109

If you are not the addressee, please inform us immediately that you have received this e-mail by mistake, and delete it. We thank you for your support.

From: Stephen Aaron [saaron@mercuryllc.com]

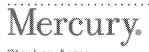
Sent: 4/28/2017 2:58:22 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: North entrance

I'm heading through security.



Stephen Aaron
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From: Gunasekara, Surya [Surya@mail.house.gov]

Sent: 5/23/2017 12:08:39 PM

To: 'Lauren Sheehan' [LSheehan@afpm.org]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: CEI dinner

We'll be there.

From: Lauren Sheehan [mailto:LSheehan@afpm.org]

Sent: Monday, May 22, 2017 6:13 PM

To: Gunasekara. Mandy@epa.gov; Gunasekara, Surya

Subject: CEI dinner

https://cei.org/ceidinner

June 7th @ Marriott marquis.

You guys will have a seat at the table and access to the "presidential reception" whatever the eff that it is.

Lauren Sheehan

Senior Manager Government Relations

American
Fuel & Petrochemical
Manufacturers
1667 K Street NW
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202.457 0480 office
202.552.8487 direct
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LSheehan@afpm.org

From: David Fialkov [dfialkov@natso.com]

Sent: 5/2/2017 2:40:05 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RFS Meeting w/ NATSO

Hi Mandy,

Since we've been playing phone tag for going on a month now, I thought it'd be worth my shooting you an email instead....

As I've indicated in my voicemails, many NATSO members (Love's, Pilot Flying J, others) have been advocating on RFS issues for many years, and I thought it'd be worth our connecting to discuss.

If you're free, I will have some of the top fuel guys from these companies and one or two others in town on Wednesday, May 17th. Would you have any time that day to meet with them to discuss RFS issues, especially the Point of Obligation? Afternoon is best but we can accommodate your schedule.

If that day doesn't work, I'd be happy to come in and discuss this stuff individually as well at a time that works for you.

Thanks very much, look forward to meeting you and sorry about all the back and forth.

Dave

--

David H. Fialkov Vice President, Government Relations Legislative and Regulatory Counsel NATSO, Representing America's Travel Centers and Truckstops dfialkov@natso.com (703) 739 - 8501

From: Krenik, Edward [edward.krenik@bracewell.com]

Sent: 4/29/2017 12:22:19 AM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: Portable Generators!

Thank you. Send me the final when you have it.

Best,

Ed

Sent from my Verizon, Samsung Galaxy smartphone

EDWARD KRENIK

Partner

edward.krenik@policyres.com

T: +1.202.828.5877 | F: +1.800.404.3970

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----- Original message -----

From: "Gunasekara, Mandy" < Gunasekara. Mandy@epa.gov>

Date: 4/28/17 7:39 PM (GMT-05:00)

To: "Krenik, Edward" <edward.krenik@bracewell.com>

Subject: RE: Portable Generators!

Thank you. It's kicked until next week, but I've got a draft. Thanks for contact info.

From: Krenik, Edward [mailto:edward.krenik@bracewell.com]

Sent: Friday, April 28, 2017 2:44 PM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Subject: Re: Portable Generators!

Mandy,

Hope your day is going great. Don't know where you are with the letter but thought you might like Buerkle's email. <u>ABuerkle@cpsc.gov</u>.

Let me know if you need anything more from me.

Have a great weekend.

Ed

Sent from my Verizon, Samsung Galaxy smartphone

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From: "Gunasekara, Mandy" < Gunasekara. Mandy@epa.gov>

Date: 4/21/17 11:47 AM (GMT-05:00)

To: "Krenik, Edward" < edward.krenik@bracewell.com>

Subject: RE: Portable Generators!

Ok – perfect. See you in a few.

From: Krenik, Edward [mailto:edward.krenik@bracewell.com]

Sent: Friday, April 21, 2017 11:46 AM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov >

Subject: Re: Portable Generators!

I am coming down 13th Street now. Should be there shortly. I will meet you outside your entrance.

Sent from my Verizon, Samsung Galaxy smartphone

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From: "Gunasekara, Mandy" < Gunasekara. Mandy@epa.gov>

Date: 4/20/17 5:26 PM (GMT-05:00)

To: "Krenik, Edward" < edward.krenik@bracewell.com>

Subject: RE: Portable Generators!

Yes! Send me an email when you are close. I can meet you outside or at the Trump Starbucks that is across the street.

Whichever is easier for you.

Best, Mandy

From: Krenik, Edward [mailto:edward.krenik@bracewell.com]

Sent: Thursday, April 20, 2017 5:23 PM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov >

Subject: RE: Portable Generators!

Mandy,

Does noon work tomorrow?

Ed

EDWARD KRENIK

Partner

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From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Thursday, April 20, 2017 10:48 AM

To: Krenik, Edward; Segal, Scott

Cc: Holmstead, Jeff

Subject: RE: Portable Generators!

Ed, can you call me when you have a sec? Personal Phone / Ex. 6

From: Krenik, Edward [mailto:edward.krenik@bracewell.com]

Sent: Thursday, April 20, 2017 10:46 AM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov >; Krenik, Edward < edward.krenik@bracewell.com >; Segal, Scott

<scott.segal@bracewell.com>

Cc: Holmstead, Jeff < jeff.holmstead@bracewell.com >

Subject: Re: Portable Generators!

Hi Mandy,

I hope things are going good for you. I understand you connected with Chairman Buerkle. She told me that you had a nice discussion about the letter.

The comment period for the CPSC proposal ends April 24th. I was wondering if you think you will have your letter finished and submitted by then.

Thanks for all you do.

Ed

Sent from my Verizon, Samsung Galaxy smartphone

EDWARD KRENIK

Partner

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----- Original message -----From: "Gunasekara, Mandy" < Gunasekara. Mandy@epa.gov> Date: 4/4/17 11:58 AM (GMT-05:00) To: "Krenik, Edward" < Edward.Krenik@bracewelllaw.com >, "Segal, Scott" < Scott.Segal@bracewelllaw.com > Cc: "Holmstead, Jeff" <Jeff.Holmstead@bracewelllaw.com>, "Lee, John" <John.Lee@bracewelllaw.com> Subject: RE: Portable Generators! Hi All – Thank you for coming in today. I apologize for the logistical issues and wish we had more time to catch-up, but appreciate your understanding. I just tried to call Ann Marie and her mailbox was full so I could not leave a message. Do you have an email address I can use to touch base? Also, if it's easier, you can pass my direct # on to her: 202-564-2314. Best, Mandy From: Gunasekara, Mandy Sent: Tuesday, April 4, 2017 10:43 AM To: 'Krenik, Edward' <Edward.Krenik@bracewelllaw.com>; Segal, Scott <Scott.Segal@bracewelllaw.com>; Washington, Valerie < Washington. Valerie@epa.gov> Cc: Holmstead, Jeff <Jeff.Holmstead@bracewelllaw.com>; Lee, John <John.Lee@bracewelllaw.com> **Subject:** RE: Portable Generators! I'm coming down now – she is out sick today. From: Krenik, Edward [mailto:Edward.Krenik@bracewelllaw.com] Sent: Tuesday, April 4, 2017 10:40 AM To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov >; Segal, Scott < Scott. Segal@bracewelllaw.com >; Washington, Valerie < Washington. Valerie@epa.gov> Cc: Holmstead, Jeff <Jeff.Holmstead@bracewelllaw.com>; Lee, John <John.Lee@bracewelllaw.com> Subject: Re: Portable Generators!

Hey Mandy,

We are downstairs. No Valerie available.

Thanks,

Ed

Sent from my Verizon, Samsung Galaxy smartphone

EDWARD KRENIK

Partner

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From: "Gunasekara, Mandy" < Gunasekara. Mandy@epa.gov>

Date: 4/3/17 7:48 AM (GMT-05:00)

To: "Segal, Scott" <Scott.Segal@bracewelllaw.com>, "Washington, Valerie" <Washington.Valerie@epa.gov>

Cc: "Krenik, Edward" < Edward. Krenik@bracewelllaw.com>, "Holmstead, Jeff" < Jeff. Holmstead@bracewelllaw.com>,

"Lee, John" < John.Lee@bracewelllaw.com>

Subject: Re: Portable Generators!

Hey Scott- I'd be happy to meet. I've got time at 10:30 tomorrow. Call Valerie Washington at 202.564.1016 when you get to the North entrance and she'll escort you up.

Best, Mandy

Sent from my iPhone

On Mar 31, 2017, at 5:31 PM, Segal, Scott < Scott.Segal@bracewelllaw.com > wrote:

From: Samantha Slater [SSlater@ethanolrfa.org]

Sent: 4/24/2017 12:01:44 PM

To: Pruitt, Scott [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=757bedfd70ca4219b6d8046f5ce5681e-Pruitt, Sco]

CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RFA Letter to Administrator Pruitt re 2018 RVO Process

Attachments: RFA Letter to Administrator Pruitt_re_RFS.pdf

Administrator Pruitt:

Attached please find a letter from the Renewable Fuels Association regarding the importance of ensuring an on schedule process for the 2018 Renewable Volume Obligations under the Renewable Fuel Standard (RFS).

Please let us know if you have any questions.

We look forward to speaking with you on this, and other topics related to the RFS and U.S. ethanol industry in the future.

Thank you!

Samantha M. Slater Vice President, Government Affairs Renewable Fuels Association 425 Third Street, SW, Suite 1150 Washington, D.C. 20024

Telephone: 202-289-3835 Direct: 202-315-2451 Fax: 202-289-7519 Cell: 202-302-5165

E-mail: sslater@ethanolrfa.org

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April 24, 2017

The Honorable Scott Pruitt Administrator U.S. Environmental Protection Agency 1200 Pennsylvania Avenue, NW Washington, DC 20460

Dear Administrator Pruitt,

As the Environmental Protection Agency (EPA) prepares its proposed rulemaking for 2018 Renewable Volume Obligations (RVOs) under the Renewable Fuel Standard (RFS), we write today to underscore the importance of keeping the rule on schedule and ensuring the 2018 conventional renewable fuel volume requirement remains at the statutory level of 15 billion gallons.

The ethanol industry was highly encouraged by your commitment to "administer the [RFS] program according to the intent of Congress" and to keep the program's rulemakings on schedule. We agree with your statement during the recent Senate Environment and Public Works Committee's confirmation hearing that EPA's past failures to meet the statutory deadlines for issuing RVO rules "create[d] great uncertainty in the marketplace."

When affected parties under the RFS are provided with regulatory certainty and sufficient lead time for planning, they have consistently demonstrated an ability to adapt their operations and comply with the standards. For example, while 2014 had already passed and 2015 was nearly over when EPA finally published the final rule for 2014-2016 RVOs in November 2015, obligated parties, renewable fuel producers, and other stakeholders had sufficient time to react and implement compliance strategies for 2016. The result, as documented in a recent analysis by the University of Illinois, was slight overcompliance with the 2016 RFS volume requirement and growth in surplus stocks of certain Renewable Identification Number (RIN) credits.³

Similarly, the final rule for 2017 RVOs, which finally set the conventional renewable fuel requirement at the statutory level of 15 billion gallons, was published on schedule in November 2016. This provided obligated parties and renewable fuel producers with ample time to plan and implement strategies that will facilitate compliance with this year's standards. Ethanol producers have ramped up production and are on pace to produce a record supply of 16 billion gallons of conventional renewable fuel in 2017, well above the 15-billion-gallon conventional renewable fuel RVO. Meanwhile, refiners and blenders have upped their inclusion of ethanol in U.S. gasoline, with average blend rates hitting a record weekly level of 10.4% in mid-January. In addition to offering the lowest-cost means of compliance with

¹ U.S. Senate Committee on Environment and Public Works. "Hearing on Nomination of Attorney General Scott Pruitt to be Administration of the U.S. Environmental Protection Agency" (Transcript), at 57. January 18, 2017. ² *Ibid*, at 87.

³ Paulson, N. "2016 Year End RIN Update." *farmdoc daily* (7):67, Department of Agricultural and Consumer Economics, University of Illinois at Urbana-Champaign, April 12, 2017.

the RFS, ethanol also serves as the cheapest and cleanest source of octane available on the market today, helping to reduce consumer fuel prices at the pump and cut emissions of both greenhouse gases and harmful tailpipe pollutants.

Because the final 2016 and 2017 RVOs were published on schedule, the marketplace has responded and obligated parties have shown that the so-called "blend wall" is not a real barrier to RFS compliance. A recent analysis of data from the Energy Information Administration (Attachment) reveals that gasoline consumed in the United States in 2016 contained 10.04% ethanol on average, well above the purported marketplace "limit" of 9.7% promoted by the American Petroleum Institute. In fact, the data show that national average ethanol content was 10.0% or higher in six of the last seven months of 2016, culminating with a record high monthly rate of 10.3% in December 2016. Compelled by the RFS and favorable blending economics, growing consumption of E15, mid-level ethanol blends (containing 20-50% ethanol) and flex fuels (containing 51-83% ethanol) was responsible for the increase in the average ethanol content of U.S. gasoline last year. Your commitment to timeliness and certainty in the RVO rulemaking process will allow this evolution of the marketplace to continue in 2018.

Over the past 18 months, obligated parties have shown that they can readily achieve compliance with RFS requirements if EPA's annual RVO rulemakings remain faithful to Congressional intent, are published on schedule, and provide certainty to the marketplace. Accordingly, we respectfully ask that EPA ensures the 2018 RVO rulemaking process remains on schedule, and that the 2018 conventional renewable fuel volume requirement remains at the statutory level of 15 billion gallons.

We greatly appreciate your commitment to the continued success of the RFS, and we look forward to working with you to improve our nation's economic security and environmental quality.

Sincerely,

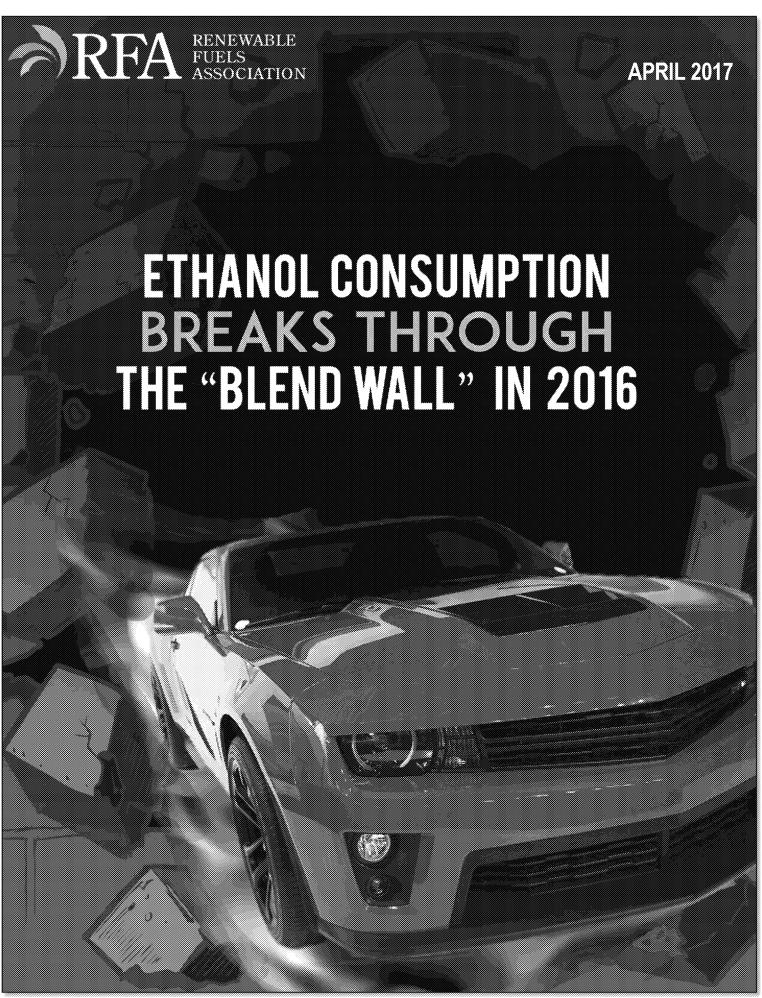
Bob Dinneen
President & CEO

cc:

Chris Grundler, Director, EPA Office of Transportation & Air Quality

Attachment:

"Ethanol Consumption Breaks Through the 'Blend Wall' in 2016." Renewable Fuels Association. April 2017



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SUMMARY: ETHANOL CONSUMPTION BREAKS THROUGH THE "BLEND WALL" IN 2016

Recent data from the U.S. Energy Information Administration (EIA) confirm that the so-called "blend wall"—the point at which ethanol makes up 10% of the U.S. gasoline supply—was exceeded nationwide for the first time ever in 2016. The data dispel the myth that 10% is the marketplace "limit" for ethanol content in U.S. gasoline, and demonstrate that the "blend wall" is not a real constraint on ethanol consumption.

Growing consumption of E15 (gasoline blends containing 15% ethanol), mid-level blends (containing 20-50% ethanol) and flex fuels (containing 51-83% ethanol) was responsible for the increase in the average ethanol content of U.S. gasoline in 2016. Based on EIA data and assumptions about the demand for ethanol-free gasoline (E0) from the American Petroleum Institute (API) and U.S. EPA, we estimate that consumption of mid-level blends and flex fuels was no less than 450 million gallons and as much as 1.7 billion gallons in 2016. Volumes at the high end of this range are based on API's assumption that E0 consumption is approximately 5.3 billion gallons annually. A summary of key findings is provided below:

- Finished motor gasoline contained 10.04% fuel ethanol on average in 2016, meaning nationwide ethanol consumption exceeded the so-called "blend wall" for the first time.
- National average ethanol content was 10.0% or higher in six of the last seven months of 2016, culminating with a record high monthly rate of 10.30% in December.
- On a weekly basis, the ethanol blend rate surpassed 10.0% in 13 of the 20 weeks between Oct. 8, 2016, and Feb. 24, 2017, hitting a weekly record of **10.41%** in early January 2017.
- These data undermine the assertion by API and others that the gasoline market cannot accommodate more than 9.7% ethanol due to purported infrastructure and vehicle constraints. April 2015 was the last time average ethanol content was *below* 9.7%.
- Using the most conservative assumptions, EIA data imply that **447 million gallons** of midlevel blends and flex fuels (containing 313 million gals. of ethanol) were consumed in 2016.
- However, if API's assumptions about E0 demand are used, then consumption of mid-level blends and flex fuels was 1.2 to 1.7 billion gallons (843 mil. to 1.17 bil. gals. of ethanol).
- Logically, as the assumed volume of E0 sales is increased, the amount of ethanol consumed in E10 falls, but the amount of ethanol consumed in E15, mid-level blends, and flex fuels rises significantly.
- The EIA data demonstrate that the supposed "blend wall" is not a real constraint on ethanol
 consumption in the United States. The data further underscore that statutory Renewable
 Fuel Standard (RFS) blending obligations in excess of the 10.0% level can be readily
 satisfied by the marketplace.

ETHANOL CONSUMPTION BREAKS THROUGH THE "BLEND WALL" IN 2016

Gasoline consumed in the United States contained more than 10.0% ethanol on average in 2016, meaning the so-called "blend wall"—the point at which ethanol makes up 10% of the gasoline supply—was exceeded nationwide for the first time ever.

Data from the Energy Information Administration (EIA) show that U.S. fuel ethanol consumption was 14,399,140,000 gallons in 2016, while 143,367,042,000 gallons of finished motor gasoline were supplied to the U.S. market.¹ Thus, finished motor gasoline contained 10.04% fuel ethanol on average (Figure 1). These data demonstrate that the supposed "blend wall" is not a real constraint on ethanol consumption in the United States. Further, the EIA data underscore that statutory Renewable Fuel Standard (RFS) blending obligations in excess of the 10% level can in fact be satisfied by obligated parties.

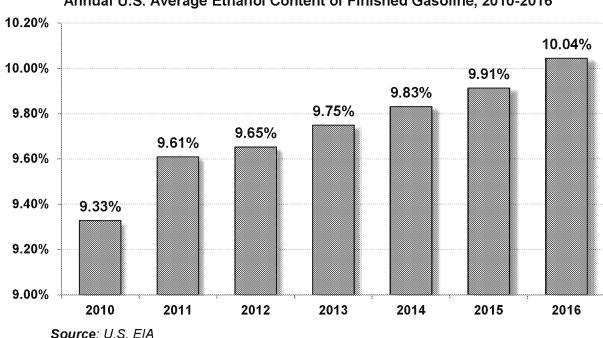


Figure 1.
Annual U.S. Average Ethanol Content of Finished Gasoline, 2010-2016

Nearly all of the gasoline consumed in the United States last year contained 10% ethanol by volume (E10). However, a small volume of ethanol-free gasoline (E0) was consumed as well. Thus, the average blend rate of 10.04% implies increased consumption of blends containing 15% ethanol (E15), "mid-level" blends containing 20-50% ethanol (e.g., E20 or E30), and flex fuels containing 51-83% ethanol (often colloquially called "E85").

_

¹ U.S. Energy Information Administration (EIA). "Petroleum Supply Monthly: U.S. Product Supplied of Finished Motor Gasoline." (https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mgfupus1&f=a) (According to EIA, "product supplied…represents *consumption* of petroleum products because it measures the disappearance of these products from primary sources (emphasis added)."); and "Monthly Energy Review: Renewable energy: Table 10.3 Fuel Ethanol Overview." (https://www.eia.gov/totalenergy/data/monthly/)

While half of the 50 states had already surpassed the 10.0% ethanol concentration level in 2015 due to broader use of E15, mid-level blends and ethanol flex fuels², 2016 marks the first time that the national average for ethanol content in gasoline exceeded 10.0%.

On a monthly basis, national average ethanol content trended higher throughout 2016. Ethanol content was 10.0% or higher in six of the last seven months of 2016, culminating with a record high monthly rate of 10.30% in December (Figure 2). Further, weekly EIA data (which tend to underestimate actual ethanol blending and consumption when later compared to EIA monthly data) show the average ethanol blend rate exceeded 10.0% in 13 of the 20 weeks between October 8, 2016, and February 24, 2017. The weekly ethanol blend rate hit a record high of 10.41% in early January. These data from EIA undermine the assertion by the American Petroleum Institute (API) and others that the gasoline market cannot exceed 9.7% denatured fuel ethanol content due to purported infrastructure and vehicle constraints.³ In reality, April 2015 was the last month in which the national average for ethanol content was *below* 9.7%. In the 20 months since, the ethanol content of finished gasoline has averaged 10.01% nationally.

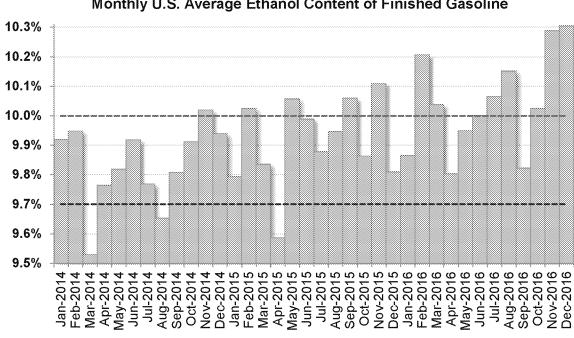


Figure 2.

Monthly U.S. Average Ethanol Content of Finished Gasoline

Source: U.S. EIA

The difference between ethanol concentration rates of 9.7% and 10.04% might at first seem trivial. But across billions of gallons of gasoline, the seemingly modest increase in the ethanol blend rate is actually quite significant. For example, if the gasoline market were truly limited to a

² RFA. "DOE Data: Half of United States Broke Through So-Called 'Blend Wall' in 2015." Dec. 13, 2016. (http://www.ethanolrfa.org/2016/12/doe-data-half-of-united-states-broke-through-so-called-blend-wall-in-2015/)

³ See, for example, Comment submitted by Frank J. Macchiarola, Group Director, Downstream and Industry Operations, American Petroleum Institute (API). July 11, 2016. (https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0004-3512)

maximum of 9.7% ethanol, total ethanol blending in 2016 would have been nearly 500,000,000 gallons lower. This is roughly equivalent to the annual output of six average-sized fuel ethanol plants. Due to incremental growth in both total gasoline demand and the ethanol blend rate, total U.S. ethanol blending in 2016 was more than 1,500,000,000 gallons higher (12%) than just five years earlier in 2012 (Figure 3).

API 9.7% "Blend Wall" ——10.0% "Blend Wall" ——10.0% "Blend Wall" 14,500,000 14,000,000 Thousand Gallons 13,500,000 14,399,140 3,946,686 13,000,000 3,443,976 3,215,619 12,893, 12,881,879 2,858,497 12,500,000 12,000,000 2010 2011 2012 2013 2014 2015 2016 Source: U.S. EIA

Figure 3. Ethanol Blended into U.S. Motor Gasoline vs. Purported "Blend Wall"

HOW MUCH ETHANOL WAS CONSUMED IN BLENDS ABOVE E10 IN 2016?

While a simple examination of U.S. ethanol and finished gasoline consumption data reveals the average ethanol content across the entire gasoline pool, it does not readily uncover the volume of ethanol consumed in blends other than E10. Some volume of gasoline contained no ethanol at all (E0), while other volumes contained significantly more than the average concentration (e.g., flex fuels like E70 or E85). The EIA data sets do not reveal the volume of E0 supplied to the retail market, nor do they show how much ethanol was specifically consumed in E10 blends versus higher-level blends (e.g., E15 and flex fuels). However, we are able to approximate the volume of ethanol consumed in mid-level blends and flex fuels based on various publicly available estimates of E0 consumption.

By subtracting total fuel ethanol consumption from total finished motor gasoline supplied, we are able to derive the total amount of "unblended" gasoline and gasoline blendstock consumed in 2016, which was 128,967,902,000 gallons. Some of this gasoline volume was indeed consumed at retail as E0, but most of it was blended with 10% ethanol before being distributed to retail

stations and sold to consumers. Based on the EIA data, we know a total of 14,399,140,000 gallons of fuel ethanol were blended with gasoline. Thus, making certain assumptions about E0 retail consumption allows us to estimate how much ethanol was consumed both in E10 blends as well as higher-level ethanol blends.

The amount of assumed E0 consumption significantly affects the implied volume of ethanol consumed in mid-level blends and flex fuels. That is, if it is assumed that a very small volume of E0 is consumed at retail (e.g., 0.5% of total gasoline consumption), then the amount of ethanol consumed in E10 blends will be larger, and the implied volume of ethanol consumed in mid-level blends and flex fuels will be relatively modest. Conversely, if it is assumed that a relatively large volume of E0 is consumed (e.g., 3.5% of total gasoline consumption), then E10 consumption will be lower, but the volume of ethanol consumed in mid-level blends and flex fuels will be much higher.

Estimates of E0 consumption vary widely. The U.S. Environmental Protection Agency's (EPA) most recent estimate for E0 consumption was 700,000,000 gallons in 2015⁴, while the API asserts that E0 consumption in 2015 was 5,300,000,000 gallons.⁵ For the reasons stated by EPA in response to API's comments on the 2014-2016 RFS proposal, we believe EPA's estimate is far more credible than API's estimate.⁶ However, both estimates are used in this analysis as bounds for the range of E0 consumption, and to illustrate the importance of this assumption.

Further, to derive an estimate of the amount of ethanol consumed in mid-level blends and flex fuels, assumptions must be made regarding the actual ethanol content of E10 blends. The API states that E10 blenders "...blend slightly less than 10 percent [ethanol] to address measurement inaccuracies and avoid compliance issues." API suggests that blenders target 9.7% ethanol for E10 blends, though we believe the actual average ethanol content of E10 is likely closer to 9.9% ethanol. Again, we use both values as bounds for the range of actual ethanol content in E10.

Other Assumptions

Estimating the volume of ethanol consumed in mid-level blends and flex fuels in 2016 requires certain other assumptions to be made. Specifically, the volume of E15 sold and the average ethanol content of mid-level blends and flex fuels (grouped together in this analysis as E20-E85) must be estimated.

<u>E15</u>: Relatively small, but growing, volumes of E15 were consumed in 2016. Based on our knowledge of the number of stations selling E15 in 2016 and typical sales volumes per station, we estimate that a total of approximately 90,000,000 gallons of E15 were sold. Based on

⁴ 81 Fed. Reg. 89776 (Dec. 12, 2016)

⁵ Comment submitted by Frank J. Macchiarola, Group Director, Downstream and Industry Operations, American Petroleum Institute (API). July 11, 2016. (https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0004-3512) ⁶ 80 Fed. Reg. 77462 (Dec. 14, 2015)

⁷ Comment submitted by API and American Fuel & Petrochemical Manufacturers (AFPM). Re: Renewable Fuel Standard Program: Standards for 2014, 2015, and 2016 and Biomass- Based Diesel Volume for 2017. July 27, 2015. https://www.afpm.org/uploadedFiles/Content/Policy Positions/Agency Comments/API%20AFPM%20RFS%20Comments%20July%202015.pdf

information provided by blenders and retailers, we further assume the actual average denatured ethanol content of E15 was 14.5%. Because the volume of E15 consumed was relatively small in 2016, varying these assumptions does not significantly change the resultant estimate of the amount of ethanol consumed above the E10 "blend wall." That is, if the actual amount of ethanol consumed in E15 blends was lower than we estimated here, then actual ethanol consumption in mid-level and flex fuel blends will be marginally higher than we estimated. Conversely, if actual E15 consumption was higher than estimated, then actual consumption of mid-level and flex fuel blends was marginally lower than estimated.

<u>Mid-Level Blends and Flex Fuels</u>: Small volumes of mid-level ethanol blends like E20, E30, and E40 are also being sold commercially, while larger volumes of ethanol flex fuels (defined by ASTM International as blends containing between 51-83% ethanol for use in flex fuel vehicles) are also being sold at more than 3,700 stations nationwide. For the purposes of this analysis, we assume the volume-weighted average denatured ethanol content of E20-E85 blends sold in 2016 was 70%.⁸

Scenarios

To determine the potential volume of ethanol sold in blends other than E10 in 2016, we examined four scenarios where two variables were altered: 1) the actual average ethanol content in E10, and 2) the volume of E0 sold at retail. Using these assumptions, a simple equation was used to solve E20-E85 consumption (average 70% ethanol) based on known EIA values for gasoline blendstock consumption, fuel ethanol consumption, and total finished motor gasoline. That is, the sum of gasoline blendstock and fuel ethanol volumes for E10, E0, E15, and E20-E85 blends under all scenarios must equal the totals from EIA.

Scenario A:	Scenario B:
E10 actual ethanol content = 9.9% (RFA)	E10 actual ethanol content = 9.9% (RFA)
E0 consumption = 700 mg (EPA)	E0 consumption = 5,300 mg (API)
Scenario C:	Scenario D:
E10 actual ethanol content = 9.7% (API)	E10 actual ethanol content = 9.7% (API)
E0 consumption = 700 mg (EPA)	E0 consumption = 5,300 mg (API)

Results

When the most conservative assumptions are used regarding E0 consumption and the actual ethanol content of E10 (Scenario A), the data suggest nearly 450,000,000 gallons of E20-E85 (with an average ethanol content of 70%) were consumed in 2016. On the other hand, when API's assumptions are used regarding E0 consumption and E10 ethanol content (Scenario D), the level of E20-E85 consumption needed to solve the equation rises to more than 1,600,000,000 gallons in 2016. This is logical because if E0 consumption is relatively large, as argued by API, then less gasoline blendstock is available to blend with the known volume of fuel ethanol that was consumed, necessitating larger volumes of mid-level blends and flex fuels. The

⁸ This assumption is based on the volume-weighted average ethanol content of mid-level blend (E20, E30, E40, E50) and E85 (70% ethanol October-April, 83% ethanol May-September) sales volumes reported by the Minnesota Department of Commerce for 2016.(http://mn.gov/commerce-stat/pdfs/e85-fuel-use-2016.pdf)

actual volume of mid-level blends and flex fuels consumed in 2016 is likely somewhere in between the lowest and highest volumes resulting from these four scenarios.

Scenario A

	Gasoline Blendstock (gals.)	Fuel Ethanol (gals.)	Total Volume (gals.)	% Ethanol
		/		
E10	128,056,949,000	14,073,459,000	142,130,408,000	9,90%
E0	700,000,000	-	700,000,000	0.00%
E15	76,953,000	13,047,000	90,000,000	14.50%
E20-E85	134,000,000	312,634,000	446,634,000	70.00%
Total	128,967,902,000	14,399,140,000	143,367,042	10.04%

<u>Scenario B</u>

	Gasoline Blendstock (gals.)	Fuel Ethanol (gals.)	Total Volume (gals.)	% Ethanol
E10	123,229,549,000	13,542,927,000	136,772,476,000	9.90%
E0	5,300,000,000	-	5,300,000,000	0.00%
E15	76,953,000	13,047,000	90,000,000	14.50%
E20-E85	361,400,000	843,165,000	1,204,565,000	70.00%
	128,967,902,000	14,399,140,000	143,367,042,000	10.04%

Scenario C

	Gasoline Blendstock (gals.)	Fuel Ethanol (gals.)	Total Volume (gals.)	% Ethanol
E10	127,913,149,000	13,737,872,000	141,651,021,000	9.70%
	700 000 000	· · · · · · · · · · · · · · · · · · ·	· · · · · · · · · · · · · · · · · · ·	
E0			700,000,000	0.00%
E15	76,953,000	13,047,000	90,000,000	14.50%
E20-E85	277,800,000	648,220,000	926,020,000	70.00%
Total	128,967,902,000	14,399,140,000	143,367,042,000	10.04%

Scenario D

	Gasoline	Fuel Ethanol	Total Volume	
	Blendstock (gals.)	(gals.)	(gals.)	% Ethanol
E10	123,091,249,000	13,220,000,000	136,311,249,000	9.70%
E0	5,300,000,000	-	5,300,000,000	0.00%
E15	76,953,000	13,047,000	90,000,000	14.50%
E20-E85	499,700,000	1,166,092,000	1,665,792,000	70.00%
Total	128,967,902,000	14,399,140,000	143,367,042,000	10.04%

CONCLUSION

Recent data from EIA confirm that the so-called "blend wall" has been exceeded nationwide for the first time ever. The data dispel the myth that 10% is the marketplace "limit" for ethanol content in U.S. gasoline, and demonstrate that the "blend wall" is not a real constraint to future ethanol consumption. Based on known volumes of finished gasoline consumption and fuel ethanol consumption, and assumed volumes of E0 and E15 consumption, we were able to consumption of mid-level blends and flex fuels in 2016. When the most conservative assumptions are used, the data suggest nearly 450 million gallons of E20-E85 (with an average ethanol content of 70%) were consumed in 2016. On the other hand, when API's assumptions are used, the level of E20-E85 consumption rises to more than 1.6 billion gallons in 2016. Regardless of the E0 assumptions used, the EIA data underscore that statutory Renewable Fuel Standard blending obligations in excess of the 10% level can be readily accommodated by the marketplace.

From: Eastern Fuel Buyers 2017 [groupcampaigns@pkghlrss.com]

Sent: 4/21/2017 8:43:07 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Your Hotel Reservation - Eastern Fuel Buyers 2017



Eastern Fuel Buyers 2017 - Apr 29, 2017 - May 7, 2017 - Disney's Yacht Club Resort

Dear Mandy Gunasekara,

We are pleased to confirm your reservation at Disney's Yacht Club Resort, as part of Eastern Fuel Buyers 2017. If for any reason your travel plans change, please contact your meeting planner.

For your convenience, Disney's Magical Express at Walt Disney World® Resort offers complimentary motorcoach transportation to and from Orlando International Airport for attendees staying at a Disney Resort hotel. To enjoy this service, <u>please submit a request</u>.

Before your visit, take advantage of *My Disney Experience. My Disney Experience* takes your visit to Walt Disney World® Resort to an all-new level, making it uniquely yours, so you can enjoy every moment with family, friends and colleagues. Click here to learn more on **My Disney Experience**.

We look forward to your arrival!

Your Reservation Details

Confirmation Number: 32JQ8JKF

Date Booked: Mar 27, 2017

Reservation Name: Mandy Gunasekara

Arrival Date: May 3, 2017

Departure Date: May 4, 2017

Room Type: Standard View

Number of Rooms:

Number of Guests: Adults 1, Children 0

Date2Guest(s)StatusRateMay 3, 20171Confirmed129.50

Per Night Rate:

Additional Guest Rate
Second Guest 0.00
Third Guest 25.00

Fourth Guest 25.00 Fifth Guest 25.00

Please note additional guest fees only applies to those 18 years and older.

Check-in after 3:00 PM/Check-out before 11:00 AM

Important Notes:

***Room type, location, and view are not guaranteed and subject to change.

CANCELLATION POLICY: To cancel a room reservation, please contact your meeting planner. Please note that if you are holding any other types of reservations, such as dining reservations, those reservations will not be cancelled unless you also advise us to cancel them.

CHANGES TO RESERVATIONS: Changes to a reservation, including but not limited to travel dates, length of stay or hotel accommodations, are subject to availability at the time the change is made and the guest is responsible for paying any increase in price resulting from the change.

RESORT CHECK-IN/CHECK-OUT. Check-in time is generally after 3 p.m. (some hotels have check-in after 4 p.m.) and check-out time is before 11 a.m. Delays may occur during peak check-in periods.

ROOM LOCATION AND INFORMATION: Adjacent rooms, connecting rooms, and specific room locations, types of bedding must be specifically requested and are subject to availability at the time of check-in. Such requests cannot be guaranteed. Specific room types or locations may result in additional charges.

Disney Resort Hotels are smoke-free environments. Smoking is allowed only in designated outdoor smoking locations. A room recovery fee will be charged for smoking in guest rooms, on balconies or on patios.

REMITTING PAYMENTS FOR DEPOSITS: For payment of deposit by check, please write your reservation number on the face of the check. All checks must have a pre-printed name, address and account number for acceptance and must be payable in U.S. funds to Disney Destinations, LLC. Only credit cards will be accepted for payments 10 days or less before your arrival date. NO POST-DATED CHECKS WILL BE ACCEPTED FOR PAYMENT. Checks should be mailed to Walt Disney World Group Reservations, PO Box 10123, Lake Buena Vista, FL 32830 **DO NOT SEND CASH** For credit card deposit payments, please call (407) 939-4686.

ROOM RATES: Confirmed room rates are guaranteed as long as your reservation is not changed (except for changes in tax rates or other governmental charges).

TAX EXEMPTION: As required by the Florida Department of Revenue, in order for your reservation to qualify for tax exemption, you must present a valid copy of your Florida Consumer's Certificate of Exemption to the front desk at check in. If this policy is not followed, your reservation will revert to a taxed reservation.

We reserve the right to cancel or modify a room reservation (even if that reservation has been confirmed) if the room reservation includes or resulted from a mistake or error of any kind, including but not limited to, a mistake or error in the rate, resort or room type, or where it appears that a guest has engaged in fraudulent or misleading activity in making the room reservation.

NON-TRANSFERRABLE: Room reservations are not transferable and reservation name changes may not be permitted.

PLEASE NOTE THE FOLLOWING:

- For reservation information, to inquire about extending your stay or for other reservation modifications BEFORE ARRIVAL, please call your meeting planner.
- All rates are in U.S. dollars.
- Additional adult charges may apply for more than two adults per room.
- Final payment is due upon arrival.
- Reservations may only be made and are only guaranteed for a length of stay of less than 30 days. We reserve the right to decline, accept or cease to retain any guest, subject to applicable law.

- All room reservations and transactions are made and consummated in the State of Florida. Room reservations and transactions and these terms and conditions will be governed by the laws of the State of Florida, without giving effect to any principles of conflicts of law.
- Booking information may be disclosed to the Group referenced above and its agents.
- All terms and conditions, including but not limited to deposit requirements and cancellation and refund policies, are subject to change by us without notice.
- DISNEY'S MAGICAL EXPRESS transportation is available for select Walt Disney World® Resort room reservations. Guests must make a reservation before arriving at Orlando International Airport by calling (407) 939-4686. Consistent with airline baggage policies, the liability of Disney Entities (as defined below) for loss of or damage to guest baggage or property arising out of Disney's Magical Express transportation is limited to a maximum of \$3,400 per guest, regardless of the number of bags or amount of property (however this policy will not affect the applicability of Fla. Stat. Section 509.111 relating to loss of or damage to guest property at hotels). Disney Entities will have no liability for the loss of or damage to cash financial instruments, precious metals, silverware, jewelry, works of art, medicine, computer/photographic/video/audio equipment, cell phones or other valuables. "Disney Entities" means Walt Disney World Resort, a division of Walt Disney Parks and Resorts U.S., Inc., its parent and other affiliated or related companies, and the directors, officers, employees, subcontractors, agents and representatives of each. No pets will be transported by Disney's Magical Express transportation, except for service animals.

This email was sent to gunasekara.mandy@epa.gov

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Disney Destinations Marketing

Attention: Email Compliance

1375 Buena Vista Drive

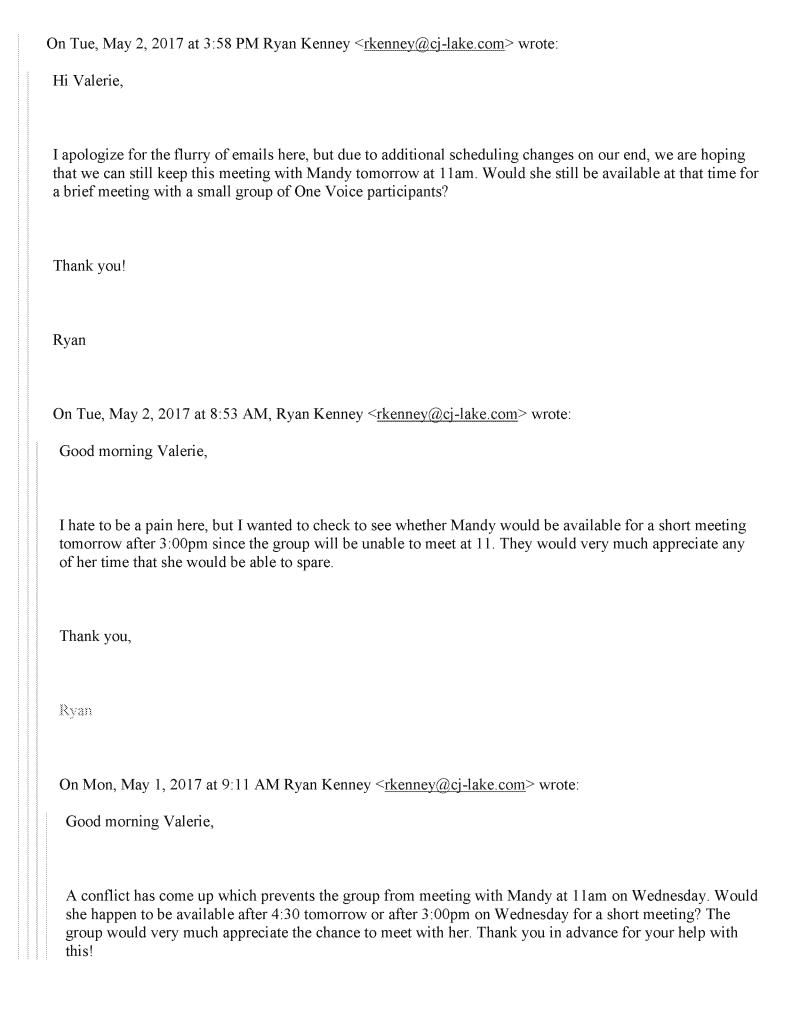
P.O. Box 10000

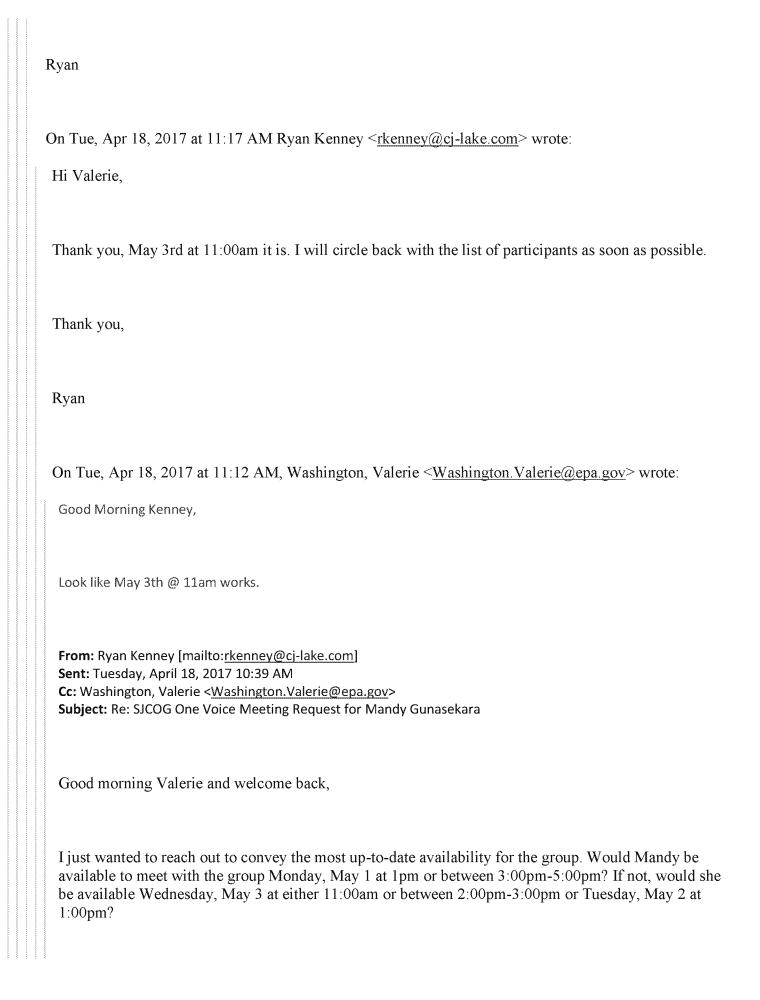
Lake Buena Vista, FL 32830

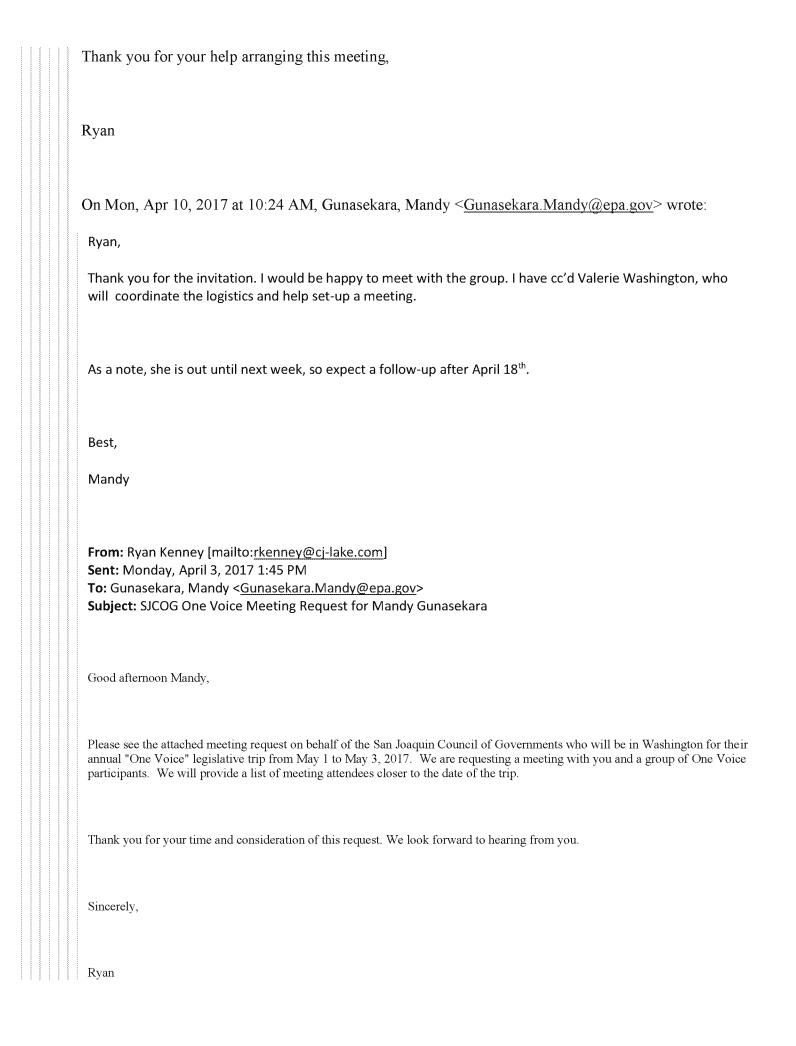
casl.disneydestinations@disneyonline.com

As to Disney artwork/properties: @Disney

From: Sent:	Ryan Kenney [rkenney@cj-lake.com] 5/3/2017 12:53:05 PM			
То:	Washington, Valerie [/o=ExchangeLabs/ou=Exchange Administrative Group			
CC:	(FYDIBOHF23SPDLT)/cn=Recipients/cn=9d031c02ce3a416dad0d421ee998d5a3-VWASHING] Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]			
Subject: Re: SJCOG One Voice Meeting Request for Mandy Gunasekara				
•	Valerie. A meeting with Chairman Shuster came up at the last minute which conflicts. We will ter on. Thank you for your understanding.			
On Wed, Ma	y 3, 2017 at 8:47 AM Washington, Valerie < <u>Washington.Valerie@epa.gov</u> > wrote:			
Good Mornir	ng Ryan,			
Thanks for ca	alling me and sending me this e-mail been busy this morning but when you ready just let me know.			
Thanks again	and enjoy your day			
Sent: Wedne To: Washingt	Kenney [mailto: <u>rkenney@cj-lake.com]</u> esday, May 03, 2017 8:33 AM ton, Valerie < <u>Washington.Valerie@epa.gov</u> > ara, Mandy < <u>Gunasekara.Mandy@epa.gov</u> >			
Subject: Re:	SJCOG One Voice Meeting Request for Mandy Gunasekara			
Good morni	ng Valerie,			
	again for the last minute back and forth here but we will have to cancel this meeting with Mandy o apologize for the last minute cancellation.			
Thank you,				
Ryan				







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Ryan Kenney

CJ Lake, LLC. 525 9th Street, NW Suite 800 Washington, D.C. 20004 (202) 465-3000

rkenney@cj-lake.com

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Ryan Kenney

CJ Lake, LLC. 525 9th Street, NW Suite 800 Washington, D.C. 20004 (202) 465-3000

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Ryan Kenney

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rkenney@cj-lake.com

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Ryan Kenney CJ Lake, LLC. 525 9th Street, NW Suite 800 Washington, D.C. 20004 (202) 465-3000 rkenney@cj-lake.com From: Sent:

>> Rob >>

>> Sent from my iPhone

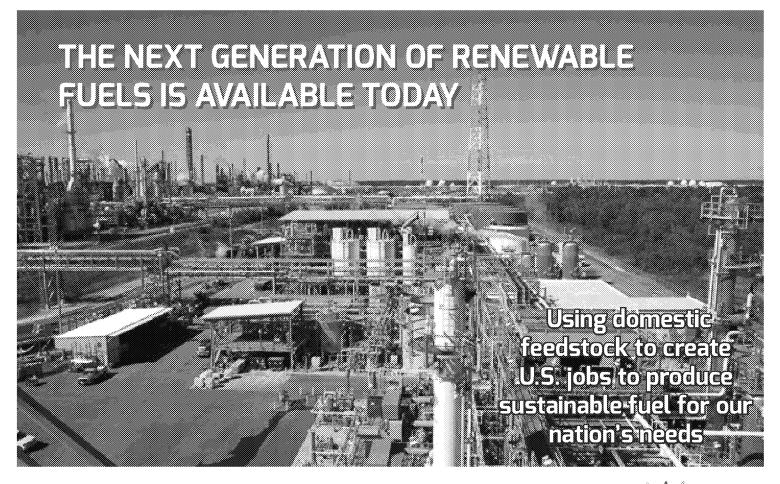
To:

Rob Underwood [runderwood@pmaa.org]

Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

5/11/2017 3:29:23 PM

```
(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject:
             Re: Thanks again
I'll call you at 10am tomorrow.
Sent from my iPhone
> On May 10, 2017, at 8:55 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:
> Yes- my direct is 202-564-2314
> Sent from my iPhone
>> On May 10, 2017, at 4:23 PM, Rob Underwood <runderwood@pmaa.org> wrote:
>>
>> Mandy, it was great catching up. I might have one more question for you. Would it be possible if I can
call you Friday morning? It will take 3 mins! I promise.
>> Best of luck with the new job!
>>
>> Take care,
>>
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From: Skelton, Crystal [cskelton@kelleydrye.com]

Sent: 5/5/2017 3:23:12 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: D'Angelo, Wayne J. [wdangelo@kelleydrye.com]

Subject: Steel Manufacturers Association

Hi Mandy,

So great seeing you last night, and can't wait to see you again in June!

As I mentioned last night, the Steel Manufacturers Association would like to invite you to speak at their annual members meeting on May 24th during the keynote slot at lunch (noonish), or if that doesn't work, anytime during the 24th or until their meeting concludes mid-day on the 25th. The members are interested in hearing about what they can expect under this Administration's EPA and how they can best assist you and Administrator Pruitt.

The group also would like to have a brief meeting with you and a select few of the members ahead of the May 24th meeting to discuss how SMA can best help EPA, and how it can point the members to topics that would be most helpful for you.

I am copying Wayne D'Angelo, who you met a few weeks ago. He is working with SMA and will be coordinating the meetings on their behalf.

Best, Crystal

CRYSTAL SKELTON

Senior Associate

Kelley Drye & Warren LLP Tel: (310) 712-6467 cskelton@kelleydrye.com

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From: Myron Ebell [Myron.Ebell@cei.org]

Sent: 4/26/2017 3:42:50 PM

To: Myron Ebell [Myron.Ebell@cei.org]

Subject: Cooler Heads Coalition alert on Paris Climate Treaty

The meeting of administration principals is now scheduled for tomorrow, Thursday. It is not expected that they will agree on a recommendation to the President, but may agree on some issues or clarify some differences.

Energy Secretary Rick Perry said yesterday that he supports staying in Paris and re-negotiating it. It's not known whether he was briefed on the feasibility of re-opening the treaty. There is no provision for us to withdraw our Nationally Determined Contribution and then submit a less ambitious one. The EU would demand as a condition of re-opening the whole treaty that it include more mandatory requirements. The developing nations would demand better guarantees that the Green Climate Fund will be fully funded and will increase each year. It's also not known whether Perry was briefed on President Trump's other campaign promise to defund UN climate programs. Funding the UNFCCC in any amount has been illegal under PL 103-236 since 17th March 2016 when Palestine became a full member. Perhaps Perry has been converted to the cause of expensive and pointless policies to reduce greenhouse gas emissions and joined the climate-industrial comple--which are a powerful client class at DOE.

The National Mining Association voted 26-5 yesterday to support President Trump's campaign promise to withdraw from Paris. It is my understanding that the 5 no votes were from Cloud Peak Energy (the big Wyoming coal company) and four multi-national hardrock mining companies.

The Cooler Heads Coalition's May monthly strategy meeting will be on Monday, 22nd May, beginning at 12 noon, at CEI, 1310 L Street, N. W., Seventh Floor. Please e-mail or ring me at 331-2256 with agenda items or questions.

Myron Ebell
Director, Center for Energy and Environment
Competitive Enterprise Institute
1310 L Street, N. W., Seventh Floor
Washington, DC 20005, USA
Tel direct: (202) 331-2256
Tel mobile: (202) 320-6685

E-mail: Myron.Ebell@cei.org

Stop continental drift!

From: Walker, Ryan [RYAN.WALKER@bp.com]

Sent: 4/26/2017 10:50:54 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Quick Question...

Hey, Mandy!

Good seeing you yesterday and congratulations again on your new position!

Just wanted to touch base on one other matter to see if it's registering on your radar. Is EPA considering any changes/roll back to the Tier 3 gasoline sulfur regulations?

Thanks and appreciate any insight you may be able to provide!

All the Best,

Ryan

Ryan P. Walker | Senior Director, Federal Government Affairs | BP America, Inc. 1101 New York Avenue NW, Suite 700 | Washington, DC 20005

Direct: (202) 346-8542 | Cell: (202) 907-4829 | Email: Ryan.Walker@bp.com

From: Spencer, Stuart [SPENCER@adeq.state.ar.us]

Sent: 4/21/2017 8:40:59 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Montgomery, William [Montgomery@adeq.state.ar.us]

Subject: SO2 issue Attachments: removed.txt

Mandy,

Thank you again for joining the AAPCA call yesterday. I'm thrilled that EPA recognizes the work the states are doing in implementing their Air programs. I wanted to follow up on an issue I addressed on the call. Arkansas is currently in the midst of uncertainty as to information that has been submitted by ADEQ to EPA Region 6 to comply with the SO2 Data Requirements Rule. As you know, the Rule has been divided up into rounds. At every step of the way thus far, Arkansas has timely complied with the requirements of the rule. Despite our timely compliance, EPA Region 6 has inappropriately allowed third party modeling to derail the approval process. EPA first allowed our Round 2 submission to be derailed by faulty Sierra Club modeling. Now, EPA has delayed its approval of our Round 3 submission, again referencing the fact that 3rd party modeling could be an important consideration. We find this to be troubling.

Will Montgomery (the ADEQ Planning Branch Manager) and I have laid out for you a timeline of events. Important dates thus far are as follows:

- August 2015: EPA promulgated SO₂ Data Requirements Rule (SO₂ DRR)
- Round 1 July 25, 2013: EPA designates 29 areas nonattainment; no Arkansas areas
- Round 2 State information due to EPA by September 18, 2015
 - ADEQ submitted required information (modeling) to EPA on September 11, 2015 (before the deadline) for the two identified facilities in order to make county designation recommendations:
 - Entergy White Bluff (Jefferson County)
 - Entergy Independence (Independence County)
 - October 2015, EPA provided ADEQ with modeling submitted to EPA for Independence County by Sierra Club
 - Note: Sierra Club provided modeling that was basic, unrefined, and erroneous. It did not adhere to the SO₂ Data Requirements Rule and incorrectly claimed concentrations above NAAQS
 - Nevertheless, on June 30, 2016, EPA sent correspondence to ADEQ stating that due to

 "insufficient information" (referring to the Sierra Club modeling and the ADEQ modeling that
 differed in results) that the EPA was designating Independence County as "Unclassifiable",
 pending additional information
- Round 3 State information due to EPA by January 13, 2017
 - On January 13, 2017, ADEQ timely submitted refined and revised modeling for Independence County (which included an additional facility, FutureFuel), as well as modeling for Mississippi and Benton Counties.

• March 8, 2017 - EPA responded by stating that it revised its SO2 model and recommended that ADEQ <u>again</u> submit information regarding Independence County using a new version of the model. In its guidance letter of March 8th, EPA stated that it "must consider all available information for designation determinations" including "any 3_{rd} party modeling submitted to the EPA." EPA stated that 3rd party modeling "could be an important consideration, especially if no updated modeling is provided by the state, local, or tribal air agency."

ADEQ is currently working with its contractor on updated modeling in response to EPA's letter of March 8, 2017. ADEQ has already expended funds in excess of \$65,000 dollars to address concerns by EPA Region 6 in response to 3rd party modeling and will be forced to continue to spend funds to alleviate the concerns in EPA's letter of March 8, 2017 if this policy is continued.

I appreciate your attention to this matter. Please don't hesitate to contact me if you need additional information from me on this issue.

Thanks,

Stuart Spencer

Associate Director- Office of Air Quality Arkansas Department of Environmental Quality 5301 Northshore Drive North Little Rock, AR 72118 Ph. # (501) 682-0750

Fax # (501) 682-0880 E-mail: SPENCER@adeq.state.ar.us

Web: http://www.adeq.state.ar.us

The Secretary Journal Agency The Secretary Secre

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From: Williams, Brendan [Brendan.Williams@pbfenergy.com]

Sent: 5/11/2017 3:22:36 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RFS

Mandy-

I hope all is well. Is there any chance you have time to connect today on the RFS? If not today, possibly sometime late next week? Please let me know whenever you get a chance. Thanks in advance for your consideration.

Regards,

Brendan Williams
Government Relations
PBF Energy
601 Pennsylvania Avenue, NW
Suite 900 South
Washington, DC 20004
O: (202) 434-8254
M: (703) 863-6825
brendan.williams@pbfenergy.com
www.pbfenergy.com



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From: Bethany Davis [bethany@boydengrayassociates.com]

Sent: 5/4/2017 2:29:36 PM

To: Hupp, Sydney [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=d50089ff1a5b4c83baa0160afe2c33cb-Hupp, Sydne]

CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Mandy Gunasekara

Thank you.

Bethany Davis Horyn | BOYDEN GRAY & ASSOCIATES 801 17th ST NW, Suite 350 Washington, DC 20006

Tel: 202-706-5491 | Fax: 202-955-0621

From: Hupp, Sydney [mailto:hupp.sydney@epa.gov]

Sent: Thursday, May 04, 2017 10:29 AM

To: Bethany Davis <bethany@boydengrayassociates.com>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>

Subject: RE: Mandy Gunasekara

Hey Bethany! Looping in Mandy.

Thanks!

Sydney Hupp

Executive Scheduler Office of the Adminsitrator 202.816.1659 (c)

From: Bethany Davis [mailto:bethany@boydengrayassociates.com]

Sent: Thursday, May 4, 2017 10:26 AM **To:** Hupp, Sydney hupp.sydney@epa.gov>

Subject: Mandy Gunasekara

Sydney,

Can I get contact information for Mandy for Amb. Gray?

Thank you,

Bethany Davis Horyn | BOYDEN GRAY & ASSOCIATES 801 17th ST NW, Suite 350 Washington, DC 20006

Tel: 202-706-5491 | Fax: 202-955-0621

From: Manley, Bret [BManley@aar.org]

Sent: 5/9/2017 5:10:53 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Follow Up from Meeting with Samantha Dravis

Attachments: AAR Comments on Point of Obligation.pdf; RFS Fed Reg Notice of Denial.pdf

Hi Mandy,

It was nice seeing you today. Not sure if you remember me but we've met a couple of times Personal Matters / Ex. 6 Congratulations on your new job at EPA, Personal Matters / Ex. 6

Not sure if you were pumped or not about Samantha offering you up on this but wanted to attach the Federal Register notice to deny and AAR's comments to that notice for your information. We are very much focused on ensuring the Point of Obligation does not change to the end user as this would have a significant impact on the railroads not to mention we don't have the capacity to comply since we do not engage in the blending and refining of fuel.

I know you have many things going on and are still waiting for all your re-enforcements but if it's helpful I'd like to come by in the next few weeks to discuss in further detail.

Hope things are going well.

Best,

Bret

Bret Manley AVP – Government Affairs Association of American Railroads

Office: 202-639-2538 Cell: 510-541-0384



ASSOCIATION OF AMERICAN RAILROADS 425 Third St., S.W. Suite 1000 Washington, D.C. 20024

Kathryn D. Kirmayer Senior Vice President – Law and General Counsel

February 22, 2017

Phone: (202) 639-2508

E-Mail: kkirmayer@aar.org

Via Electronic Filing - www. Regulations.gov

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington D.C. 20460

Re: Proposed Denial of Petitions for Rulemaking to Change the RFS Point of Obligation (EPA-HQ-OAR-2016-0544)

Dear Administrator Pruitt:

The Association of American Railroads ("AAR") writes in support of the Environmental Protection Agency's ("EPA" or "the Agency") proposal to deny petitions to change the point of obligation under the Renewable Fuel Standard ("RFS") program.¹ For the reasons expressed in the letter below, AAR strongly opposes efforts to change the point of obligation under the RFS. The proposed changes are inconsistent with the policy underlying the RFS program, and would impose substantial additional costs on railroads, who are only end-users of fuel and do not and cannot influence the incorporation of renewable fuels into the nation's fuel supply.

Environmental Protection Agency, Petition for Rulemaking, Notice of Opportunity to Comment on Proposed Denial of Petitions for Rulemaking To Change the RFS Point of Obligation, 81 Fed. Reg. 83766 (Nov. 22, 2016).

The AAR is a non-profit trade association whose membership includes freight railroads that operate 83 percent of the line-haul mileage, employ 95 percent of the workers, and account for 97 percent of the freight revenues of all railroads in the United States; and passenger railroads that operate intercity passenger trains and provide commuter rail service.

Today, the point of obligation is placed appropriately on entities that control the composition of petroleum products: refiners, manufacturers, and importers. Changing the point of obligation to position holders, as various petitioners request, would result in obligations being placed on entities – including railroads – that are end users of fuel products and have nothing to do with the production or blending of fuels. In fact, railroads do not have bioblending infrastructure and are limited in their ability to use diesel fuel that is blended with more than 5 percent biodiesel.²

Changing the point of obligation to position holders would arbitrarily and significantly increase the cost of freight transport – not only because of the compliance costs that may fall on certain railroads, but also because of the increase in fuel prices that will almost certainly follow and affect all businesses that consume motor fuels.

As detailed in the subsequent pages, the AAR respectfully urges EPA to formally deny the petitions to change the point of obligation under the RFS.³

I. THE RAILROAD INDUSTRY

A. Freight Rail in the United States

Freight railroads have played a transformational role in the development of America — revolutionizing transportation and catalyzing the country's economic development for more than 180 years. Today, America's freight railroads serve nearly every industrial, wholesale, retail, and resource-based sector of the economy, operating over a network of nearly 140,000 miles. Railroads account for approximately 40 percent of intercity freight volume — more than any other mode of transportation. In fact, railroads haul approximately one-third of all U.S. exports, allowing American industry to be more competitive in the worldwide economy. This is notable because, among other advantages, moving freight by rail is environmentally advantageous: on average, railroads are four times more fuel-efficient than trucks.⁴

With this letter, AAR supplements the letter it filed with EPA in August 2016. *See* Letter from the Association of American Railroads to Administrator McCarthy (Aug. 15, 2016), EPA Docket ID: EPA-HQ-OAR-2016-0544-0064, https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0544-0064.

² See Section I.B.

See generally, the AAR, Overview of America's Freight Railroads (June 2016), https://www.aar.org/BackgroundPapers/Overview%20of%20Americas%20Freight%20Railroads.pdf; the AAR, The Environmental Benefits of Moving Freight by Rail (Apr. 2016), https://www.aar.org/BackgroundPapers/Railroads%20and%20Greenhouse%20Gas%20Emissions.pdf.

Unlike trucks, barges, and airlines that operate using infrastructure funded mainly by taxpayers, America's privately owned freight railroads operate almost exclusively on infrastructure they own, build, maintain, and pay for themselves. From 1980 to 2015, railroads spent approximately \$600 billion of their own funds on locomotives, freight cars, tracks, bridges, tunnels, and other infrastructure and equipment to keep the economy moving. In 2015, America's freight railroads spent more than \$30 billion to sustain and enhance their nationwide network. Today, freight railroads are investing in infrastructure and employees: the approximately 170,000 freight railroad employees are among America' most highly compensated workers—and according to U.S. Department of Commerce estimates, freight railroads sustain more than one million jobs across the country in addition to their own employees.⁵

B. Railroads and Fuel

Class I railroads do not produce or sell fuel. Rather, Class I railroads in the United States are end-users that *consume* significant amounts of fuel, specifically diesel fuel. In 2015, Class I railroads alone consumed 3.723 billion gallons of diesel fuel, at a total cost of approximately \$6.67 billion. Class I railroads generally obtain product in one of two ways. They purchase fuel in bulk in wholesale markets, and receive that product in terminals. Alternatively, Class I railroads contract for product to be sold to them FOB the terminal, with title transferring at the rack. We address the consequences of changing the point of obligation for each of these two purchasing pathways separately below.

Not only are Class I railroads end users of diesel fuel, they are limited in their ability to use diesel fuel that is blended with more than 5 percent biodiesel. ⁸ This is because diesel fuel used by locomotives must, according to the American Society for Testing and Materials ("ASTM") specification ASTM D-975, contain no more than 5 percent biodiesel. In addition, any fuel railroads burn in locomotives must meet the quality definitions of Original Equipment Manufacturers ("OEMs"). Use of more than 5 percent biodiesel may put locomotive warranties at risk.

As mentioned previously, railroads generally do not blend bio-fuels into diesel, and do not have the infrastructure to do so. Railroads would have to expend significant capital to build bio-blending capabilities in order to blend biodiesel into petroleum based diesel. Even if

See generally, the AAR, The Economic Impact of America's Freight Railroads (Aug. 2016), https://www.aar.org/BackgroundPapers/Economic%20Impact%20of%20US%20Freight%20Railroads.pdf.

The Surface Transportation Board, the federal agency responsible for economic regulation of the industry, designates three classes of freight railroads based on the railroads' operating revenues: Class I (\$457.91 million or more), Class II (\$36.63 million or more and less than Class I), and Class III (less than Class II minimum).

Railroad Facts (2016 Edition), at 63.

EPA has acknowledged that railroads are end users of fuel products. EPA, *Proposal, at 40.*

railroads were to invest in blending capabilities, however, they would be limited in their ability to blend a full 5 percent biodiesel due to the significant volume of diesel that already contains some biodiesel at the point of purchase. Refiners can sell (and ship) product with up to 5 percent biodiesel without advising the purchaser of the specific biofuel content of the fuel. This limits railroads' ability to blend further. Description of the specific biofuel content of the fuel.

II. IF EPA WERE TO CHANGE THE POINT OF OBLIGATION TO "POSITION HOLDERS," THE AGENCY WOULD IMPOSE SIGNIFICANT NEW COSTS ON RAILROADS.

A. Costs to Railroads who are Position Holders

Petitioners are asking EPA to change the definition of "obligated party" to those operating at (or who are through-putting product at) bulk terminals or storage facilities. This would include many railroads. As mentioned above, railroads do not generally perform their own blending, or use fuels with greater than 5 percent biodiesel. Thus, railroads would need to purchase Renewable Identification Numbers ("RINs") on the secondary market to fulfill any Renewable Volume Obligation ("RVO") that would attach if the point of obligation were changed.

Because of the way the Program is structured, each railroad operating/through-putting product at bulk terminals would have to purchase RINs to satisfy *all four* RVOs (not just diesel RVOs). Based on 2016 RVOs and RIN prices as well as the annual fuel consumption of Class I railroads, ¹³ Class I railroads would need to expend between \$122.5 million and \$214 million just to acquire RINs for compliance with 2016 RVOs. ¹⁴ This number only accounts for direct RIN costs and does not consider administrative and other related compliance costs, which would not be insignificant. ¹⁵ Moreover, given the disruptions in the marketplace that will occur if the point of obligation were changed, AAR believes that RIN prices would increase beyond their

It is possible that a railroad may purchase fuel containing more than 5% biodiesel, however, that fuel will be combined with other diesel to ensure the fuel ultimately used contains no more than 5% biodiesel.

Depending on the particular pipeline being used to ship product (e.g., Colonial or Plantation) and whether it ships jet fuel (i.e. no biofuel permitted to be shipped in the pipeline), it is possible to know in some instances that there is no biofuel in the diesel.

See Valero, Petition for Rulemaking: Renewable Fuel Standard Definition of Obligated Party-40 C.F.R. § 80.1406 (June 13, 2016).

Three Class I freight railroads are specifically included by Valero in Appendix D of its petition as entities that qualify as "rack sellers."

²⁰¹⁶ average high and low RIN prices were used in these calculations.

Although more than 50% of the fuel the Class I railroads utilize would incur RVOs if the point of obligation were moved to the "position holder," to provide a conservative estimate we have used only 50% of the Class I railroads total fuel consumption (approx. 1.862 billion gallons of diesel) for these calculations.

If railroads became obligated parties, experience in other industries suggests that each railroad would need to have several full-time employees solely dedicated to RFS compliance.

current and historic values. Thus, if railroads became obligated parties, they would have to expend substantial funds to acquire RINs beyond what we anticipate here based on historic prices.

B. Costs to Railroads who are not Position Holders

Beyond direct RIN costs, there would also be costs for the Class I (Class II and Class III) railroads that purchase fuel at or below the rack. Changing the point of obligation would eliminate supply options ahead of and at the rack, which will lead to an increase in rack (and below rack) prices. As mid-level marketers leave the terminal to avoid incurring RVOs – as occurred in California under the Low Carbon Fuel Standard – market power at the rack will be re-concentrated in refiners, who will then have the leverage to raise prices. As fuel prices climb, the cost to railroads to provide freight transportation will rise also. As the chart below reflects, based on 2015 consumption levels, every penny of increased fuel costs will result in an increased cost to Class I railroads of approximately \$37.2 million. In light of the market's experience in California after the enactment of the Low Carbon Fuel Standard, It would not be implausible for the railroads to have to pay between \$260 and \$447 million more for fuel.

Class I Railroad Statistics for 2015

Revenue Ton-Miles	1,744,730,582,000
Gallons of Fuel, Frt Svc.	3,692,304,956
Avg RTM Per Gallon	472.53
Carloads Originated	29,441,414
Tons Originated	1,731,374,545
Gallons of Fuel, all purposes	3,723,490,720
Fuel Expenses	\$6,670,334,000
Avg Cost Per Gallon	\$1.79

	Tax Per	Additional Cost	Additional Cost	Additional Cost
	Gallon	Per Year	Per Carload	Per Ton
Add tax	\$0.01	\$37,234,907	\$1.26	\$0.02
Add tax	\$0.10	\$372,349,072	\$12.65	\$0.22
Add tax	\$1.00	\$3,723,490,720	\$126.47	\$2.15

Based on freight demand and fuel efficiency for 2015, a fuel tax of 10 cents would add \$372 million in expenses to the seven Class I railroad total. The additional cost per carload would be around \$12.65.

In the chart, the increased fuel costs are referred to as a "tax per gallon."

Petitioners contend that the RFS should be structured similar to the California Low Carbon Fuel Standard, which places obligations on position holders.

III. MAKING RAILROADS OBLIGATED PARTIES IS BAD POLICY.

Railroads purchase and use large quantities of diesel fuel. But beyond this, railroads play no part in the fuel production process, have no say over the composition of petroleum products, and do not resell fuel. Placing this obligation on railroads would in no way promote the inclusion of renewable fuels in the nation's fuel supply, the primary objective of the RFS. Railroads cannot use product with more than 5 percent biodiesel, and lack blending infrastructure. In other words, railroads have almost no ability to influence the introduction of renewable fuels into the nation's fuel supply. It would be pointless to place an obligation onto an entity that has no means of promoting the goals of the policy in question.

IV. CONCLUSION

For the reasons articulated above, the AAR calls on EPA to follow through with its proposal to deny petitions to change the point of obligation under the RFS.

Thank you for your consideration. The AAR stands ready to provide any additional information that may be of assistance to the Agency in its consideration of this matter.

Sincerely,

Kathryn D. Kirmayer

In fact, because locomotive engines run on diesel fuel, railroads also rarely deal in gasoline.



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA-HQ-OAR-2016-0544; FRL-9955-36-

Notice of Opportunity to Comment on **Proposed Denial of Petitions for** Rulemaking To Change the RFS Point of Obligation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Petitions for rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to deny several petitions requesting that EPA initiate a rulemaking process to reconsider or change its regulations that identify refiners and importers of gasoline and diesel fuel as the entities responsible for complying with the annual percentage standards adopted under the Renewable Fuel Standard (RFS) program. EPA is providing an opportunity for the public to comment on the petitions we have received and on our proposed denial of the requests to initiate rulemaking.

DATES: Written comments must be received on or before January 23, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ– OAR-2016-0544, to the Federal eRulemaking Portal: http:// www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit http://www2.epa.gov/dockets/ commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Julia MacAllister, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental

Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734-214-4131; email address: macallister.julia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

(A) What should I consider as I prepare my comments for EPA?

Submitting CBI. Do not submit this information to EPA through www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

Tips for Preparing Your Comments. When submitting comments, remember

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/ or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Background

On March 26, 2010, the EPA issued a final rule (75 FR 14670) establishing regulatory amendments to the renewable fuel standards ("RFS") program regulations to reflect statutory amendments to Section 211(o) of the

Clean Air Act enacted as part of the Energy Independence and Security Act of 2007. These amended regulations included 40 CFR 80.1406, imposing the obligation for compliance with the RFS annual standards on refiners and importers of gasoline and diesel fuel. These entities are referred to in the RFS regulations as "obligated parties." Beginning in 2014, and continuing to the present, obligated parties and other stakeholders have questioned whether 40 CFR 80.1406 should be amended, and a number of them have filed formal petitions for reconsideration or revision of the definition of "obligated party" in 40 CFR 80.1406, or petitions for rulemaking to amend the provision. On January 27, 2014, Monroe Energy LCC ("Monroe") filed a "petition to revise" 40 CFR 80.1406 to change the RFS point of obligation, and on January 28, 2016, Monroe filed a "petition for reconsideration" of the regulation. On February 11, 2016, Alon Refining Krotz Springs, Inc.; American Refining Group, Inc.; Calumet Specialty Products Partners, L.P.; Lion Oil Company; Ergon-West Virginia, Inc.; Hunt Refining Company; Placid Refining Company LLC; U.S. Oil & Refining Company (the "Small Refinery Owners Ad Hoc Coalition") filed a petition for reconsideration of 40 CFR 80.1406. On February 12, 2016, Valero Energy Corporation and its subsidiaries ("Valero") filed a "petition to reconsider and revise" the rule. On June 13, 2016, Valero submitted a petition for rulemaking to change the definition of "obligated party." On August 4, 2016, the American Fuel and Petrochemical Manufacturers ("AFPM") filed a petition for rulemaking to change the definition of "obligated party." On September 2, 2016, Holly Frontier also filed a petition for rulemaking to change the definition of "obligated party." The petitions, comments received to date on the petitions, and EPA's draft analysis are available in a public docket that EPA has established for this Notice under Docket ID No. EPA-HQ-OAR-2016-0544.

III. What information is EPA particularly interested in?

The petitioners all seek to have the point of obligation shifted from refiners and importers, but differ somewhat in their suggestions for alternatives. Some request that EPA shift the point of obligation from refiners and importers to those parties that blend renewable fuel into transportation fuel. Others suggest that it be shifted to those parties that hold title to the gasoline or diesel fuel immediately prior to the sale of these fuels at the terminal (these parties

are commonly called the position holders), or to "blenders and distributors." All petitioners argue, among other things, that shifting the point of obligation to parties downstream of refiners and importers in the fuel distribution system would align compliance responsibilities with the parties best positioned to make decisions on how much renewable fuel is blended into the transportation fuel supply in the United States. Some of the petitioners further claim that changing the point of obligation would result in an increase in the production, distribution, and use of renewable fuels in the United States and would reduce the cost of transportation fuel to consumers.

In the draft analysis available in the docket referenced above (Docket ID No. EPA-HQ-OAR-2016-0544), we present our rationale for proposing to deny the requests to initiate a rulemaking on the issue. In evaluating this matter, EPA's primary consideration is whether or not a change in the point of obligation would improve the effectiveness of the program to achieve Congress's goals. At the same time, EPA believes that a change in the point of obligation would be a substantial disruption that has the potential to undermine the success of the RFS program, as a result of increasing instability and uncertainty in programmatic obligations. We believe that the proponents of such a change bear the burden of demonstrating that the benefits are sufficiently large and likely that the disruption associated with such a transition would be worthwhile.

We believe that the current structure of the RFS program is working to incentivize the production, distribution, and use of renewable transportation fuels in the United States, while providing obligated parties a number of options for acquiring the RINs they need to comply with the RFS standards. We do not believe that petitioners have demonstrated that changing the point of obligation would likely result in increased use of renewable fuels. Changing the point of obligation would not address challenges associated with commercializing cellulosic biofuel technologies and the marketplace dynamics that inhibit the greater use of fuels containing higher levels of ethanol, two of the primary issues that inhibit the rate of growth in the supply of renewable fuels today. Changing the point of obligation could also disrupt investments reasonably made by participants in the fuels industry in reliance on the regulatory structure the agency established in 2007 and reaffirmed in 2010. While we do not

anticipate a benefit from changing the point of obligation, we do believe that such a change would significantly increase the complexity of the RFS program, which could negatively impact its effectiveness. In the short term we believe that initiating a rulemaking to change the point of obligation could work to counter the program's goals by causing significant confusion and uncertainty in the fuels marketplace. Such a dynamic would likely cause delays to the investments necessary to expand the supply of renewable fuels in the United States, particularly investments in cellulosic biofuels, the category of renewable fuels that Congress envisioned would provide the majority of volume increases in future years.

In addition, changing the point of obligation could cause restructuring of the fuels marketplace as newly obligated parties alter their business practices to purchase fuel under contract "below the rack" instead of "above the rack" to avoid the compliance costs associated with being an obligated party under the RFS program. We believe these changes would have no beneficial impact on the RFS program or renewable fuel volumes and would decrease competition among parties that buy and sell transportation fuels at the rack, potentially increasing fuel prices for consumers and profit margins for refiners, especially those not involved in fuel marketing. EPA is also not persuaded, based on our analysis of available data, including that supplied by petitioners, by their arguments that they are disadvantaged compared to integrated refiners in terms of their costs of compliance, nor that other stakeholders such as unobligated blenders are receiving windfall profits.

EPA specifically requests comments that address whether or not changing the point of obligation in the RFS program would be likely to significantly increase the production, distribution, and use of renewable fuels as transportation fuel in the United States, as well as any data that can substantiate such claims. We also seek comment on any of the issues discussed here and in the more complete draft analysis of the petitions available in the docket referenced above, including EPA's authority to place the point of obligation on distributors and position holders; the significance of limiting the number and nature of obligated parties; the number of parties that are currently blenders or position holders; the extent to which blenders and position holders may be small businesses for whom designation as an obligated party would be particularly burdensome; whether it is likely that current renewable fuel

blenders and/or position holders would reposition themselves in the market to avoid RFS obligations if designated as obligated parties and the likely impact of such repositioning; the significance of transitional issues and potential regulatory uncertainty that would result from changing the point of obligation; and the extent to which a change in the point of obligation could lead to unintended market changes or consequences.

Dated: November 10, 2016.

Ianet McCabe.

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2016–27854 Filed 11–21–16; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 438

[CMS-2402-P]

RIN 0938-AT10

Medicaid Program; The Use of New or Increased Pass-Through Payments in Medicaid Managed Care Delivery Systems

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule addresses changes, consistent with the CMCS Informational Bulletin (CIB) concerning "The Use of New or Increased Pass-Through Payments in Medicaid Managed Care Delivery Systems," published on July 29, 2016, to the passthrough payment transition periods and the maximum amount of pass-through payments permitted annually during the transition periods under Medicaid managed care contract(s) and rate certification(s). The changes prevent increases in pass-through payments and the addition of new pass-through payments beyond those in place when the pass-through payment transition periods were established in the final Medicaid managed care regulations.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. December 22, 2016.

ADDRESSES: In commenting please refer to file code CMS-2402-P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

From: Eastern Fuel Buyers 2017 [groupcampaigns@pkghlrss.com]

Sent: 4/27/2017 2:59:11 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Your Hotel Reservation - Eastern Fuel Buyers 2017



Eastern Firet Buyers 2017 - April 29 2017 - May 1 2017 - Disneys Yacht Club Resort

Dear Mandy Gunasekara,

We are pleased to confirm your reservation at Disney's Yacht Club Resort, as part of Eastern Fuel Buyers 2017. If for any reason your travel plans change, please contact your meeting planner.

For your convenience, Disney's Magical Express at Walt Disney World® Resort offers complimentary motorcoach transportation to and from Orlando International Airport for attendees staying at a Disney Resort hotel. To enjoy this service, <u>please submit a request</u>.

Before your visit, take advantage of *My Disney Experience. My Disney Experience* takes your visit to Walt Disney World® Resort to an all-new level, making it uniquely yours, so you can enjoy every moment with family, friends and colleagues. Click here to learn more on **My Disney Experience**.

We look forward to your arrival!

Per Night Rate:

Your Reservation Details

Confirmation Number: 32JQ8JKF Date Booked: Mar 27, 2017 Reservation Name: Mandy Gunasekara Arrival Date: May 3, 2017 Departure Date: May 4, 2017 Room Type: Standard View Number of Rooms: Number of Guests: Adults 1, Children 0 \$259.00 per night + tax

> Additional Guest Rate

Second

Guest 0.00

Third

Guest	25.00
Fourth	
Guest	25.00
Fifth	
Guest	25.00

Please note additional guest fees only applies to those 18 years and older.

Check-In after 3:00 PM/Check-out before 11:00 AM

***Room type, location, and view are not guaranteed and subject to change.

CANCELLATION POLICY: To cancel a room reservation, please contact your meeting planner. Please note that if you are holding any other types of reservations, such as dining reservations, those reservations will not be cancelled unless you also advise us to cancel them.

CHANGES TO RESERVATIONS: Changes to a reservation, including but not limited to travel dates, length of stay or hotel accommodations, are subject to availability at the time the change is made and the guest is responsible for paying any increase in price resulting from the change.

RESORT CHECK-IN/CHECK-OUT. Check-in time is generally after 3 p.m. (some hotels have check-in after 4 p.m.) and check-out time is before 11 a.m. Delays may occur during peak check-in periods.

ROOM LOCATION AND INFORMATION: Adjacent rooms, connecting rooms, and specific room locations, types of bedding must be specifically requested and are subject to availability at the time of check-in. Such requests cannot be guaranteed. Specific room types or locations may result in additional charges.

Disney Resort Hotels are smoke-free environments. Smoking is allowed only in designated outdoor smoking locations. A room recovery fee will be charged for smoking in guest rooms, on balconies or on patios.

REMITTING PAYMENTS FOR DEPOSITS: For payment of deposit by check, please write your reservation number on the face of the check. All checks must have a pre-printed name, address and account number for acceptance and must be payable in U.S. funds to Disney Destinations, LLC. Only credit cards will be accepted for payments 10 days or less before your arrival date. NO POST-DATED CHECKS WILL BE ACCEPTED FOR PAYMENT. Checks should be mailed to Walt Disney World Group Reservations, PO Box 10123, Lake Buena Vista, FL 32830 **DO NOT SEND CASH** For credit card deposit payments, please call (407) 939-4686.

ROOM RATES: Confirmed room rates are guaranteed as long as your reservation is not changed (except for changes in tax rates or other governmental charges).

TAX EXEMPTION: As required by the Florida Department of Revenue, in order for your reservation to qualify for tax exemption, you must present a valid copy of your Florida Consumer's Certificate of Exemption to the front desk at check in. If this policy is not followed, your reservation will revert to a taxed reservation.

We reserve the right to cancel or modify a room reservation (even if that reservation has been confirmed) if the room reservation includes or resulted from a mistake or error of any kind, including but not limited to, a mistake or error in the rate, resort or room type, or where it appears that a guest has engaged in fraudulent or misleading activity in making the room reservation.

NON-TRANSFERRABLE: Room reservations are not transferable and reservation name changes may not be permitted.

PLEASE NOTE THE FOLLOWING:

Important Notes:

- For reservation information, to inquire about extending your stay or for other reservation modifications BEFORE ARRIVAL, please call your meeting planner.
- All rates are in U.S. dollars.

- · Additional adult charges may apply for more than two adults per room.
- Final payment is due upon arrival.
- Reservations may only be made and are only guaranteed for a length of stay of less than 30 days. We reserve the right to decline, accept or cease to retain any guest, subject to applicable law.
- All room reservations and transactions are made and consummated in the State of Florida. Room reservations and transactions and these terms and conditions will be governed by the laws of the State of Florida, without giving effect to any principles of conflicts of law.
- Booking information may be disclosed to the Group referenced above and its agents.
- All terms and conditions, including but not limited to deposit requirements and cancellation and refund policies, are subject to change by us without notice.
- DISNEY'S MAGICAL EXPRESS transportation is available for select Walt Disney World® Resort room reservations. Guests must make a reservation before arriving at Orlando International Airport by calling (407) 939-4686. Consistent with airline baggage policies, the liability of Disney Entities (as defined below) for loss of or damage to guest baggage or property arising out of Disney's Magical Express transportation is limited to a maximum of \$3,400 per guest, regardless of the number of bags or amount of property (however this policy will not affect the applicability of Fla. Stat. Section 509.111 relating to loss of or damage to guest property at hotels). Disney Entities will have no liability for the loss of or damage to cash financial instruments, precious metals, silverware, jewelry, works of art, medicine, computer/photographic/video/audio equipment, cell phones or other valuables. "Disney Entities" means Walt Disney World Resort, a division of Walt Disney Parks and Resorts U.S., Inc., its parent and other affiliated or related companies, and the directors, officers, employees, subcontractors, agents and representatives of each. No pets will be transported by Disney's Magical Express transportation, except for service animals.

This email was sent to gunasekara.mandy@epa.gov

If you wish to unsubscribe the above address from future commercial emails from Disney Destinations, click here.

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Disney Destinations Marketing

Attention: Email Compliance

1375 Buena Vista Drive

P.O. Box 10000

Lake Buena Vista, FL 32830

casl.disneydestinations@disneyonline.com

As to Disney artwork/properties: @Disney

From: Hilary Moffett [moffetth@api.org]

Sent: 5/1/2017 7:51:56 PM

To: Matthew Todd [ToddM@api.org]

CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: emails

Jackson, Ryan jackson.ryan@epa.gov

gunasekara.mandy@epa.gov

Hilary Moffett
Director, Federal Relations
American Petroleum Institute
202-682-8040 (desk)
612-710-8696 (cell)
MoffettH@api.org

From: Ron Minsk Personal Email / Ex. 6

Sent: 5/10/2017 8:32:12 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Washington, Valerie [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=9d031c02ce3a416dad0d421ee998d5a3-VWASHING]; Dravis, Samantha

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=ece53f0610054e669d9dffe0b3a842df-Dravis, Sam]

Subject: Re: Request to Meet About the RFS

Mandy, Thank you very much. I look forward to our conversation. Ron

From: "Gunasekara, Mandy" < Gunasekara. Mandy@epa.gov>

Date: Wednesday May 10, 2017 at 3:59 PM

To: R < rminsk Personal Email / Ex. 6

Cc: "Washington, Valerie" < Washington. Valerie@epa.gov>, "Dravis, Samantha" < dravis.samantha@epa.gov>

Subject: RE: Request to Meet About the RFS

Hi Ron,

Yes – happy to meet. Apologize for delayed response. Cc'ing in Valerie Washington who can help with the logistics. I'm also cc'ing Samantha Dravis who will also be in this meeting from our end.

Valerie, can you find us a time/place to meet the week of the 22nd? I'm fairly flexible then. Please include Samantha and Brittany on the invitation.

Look forward to chatting soon.

Best, Mandy

From: Ron Minsk Personal Email / Ex. 6

Sent: Friday, May 5, 2017 9:27 AM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov >

Subject: Request to Meet About the RFS

Hi Mandy,

I wanted to introduce myself and request a meeting with you to discuss the RFS point of obligation issue. I served as the energy and environment person at the White House National Economic Council under President Obama during much of the time when the RFS was being addressed. I fully appreciate the complexity of the issue and sympathize with the difficulty of the issue that you are working on now.

I have long thought that moving the point of obligation was a way to substantially strengthen the program. Doing so would promote the blending of ethanol and reduce the cost by aligning the obligation to blend and the ability to blend. EPA has seemed to acknowledge the theory but has been skeptical with respect to whether there is data to support the theory.

I addressed this issue directly in comments that I filed in the docket recently and have attached to this email. In short, I show that obligated companies that are long are far less likely to blend than obligated parties that are short, and that the best way

to promote blending is to adjust the incentives by moving the point of obligation. You can see these point most clearly in Figures 6 and 7 of my comments on pages 26 and 27 of the PDF file.

Without knowing what you are inclined to do, I know that even if you wanted to do this, you would want to be able to fully explain it. I also appreciate that there would be a lot of hard questions that stakeholders might raise. I know where you are because I have been there myself.

I would welcome the opportunity to walk you through my work and explain how I would answer the questions that I am sure you would want answers to if you want to make this change.

I am generally available to come in to meet with you. I can be reached at minsk@earthlink.net and by phone at 240-535-9799.

I look forward to meeting you.

Warm Regards,

Ron Minsk

Former Special Ass't to the POTUS for Energy and the Environment

From: Randy Schumacher [randy@schumacherpartners.com]

Sent: 5/8/2017 12:46:16 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Diane L. Schumacher [diane@schumacherpartners.com]; Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange

Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]

Subject: Re: Contact Information

Mandy –

Many thanks for getting back to us. Best wishes for continued success at EPA, and thank you for your service.

Sarah, we would welcome an opportunity to speak with you on two issues: water infrastructure and drinking water standards. No doubt you have a full plate so we will toss it back to you regarding when your schedule opens up for a conversation. We look forward to it.

Thanks again.

Randy and Diane Schumacher

Schumacher Partners International, LLC 1129 20th Street, NW, Suite 300 Washington, DC 20036 202.626.8523 (o) 202.251.9156 (m)

On May 7, 2017, at 4:32 PM, Gunasekara, Mandy < <u>Gunasekara.Mandy@epa.gov</u>> wrote:

Randy and Diane,

Great to hear from you both! I hope you are well. I have CC'd Sarah Greenwalt who is our water expert.

Sarah, Randy and Diane are good friends who are looking to connect on some water issues.

My office number is 202-564-2314. Call anytime- I'm always happy to help.

Best, Mandy

Sent from my iPhone

On May 5, 2017, at 3:58 PM, Randy Schumacher < randy@schumacherpartners.com > wrote:

Hi Mandy –

We hope you are well and enjoying your new role at EPA.

Knowing how full your plate is already we hesitate to ask you to direct us to your counterpart who handles water policy issues for the Administrator. When you have a minute would you please provide her/his office phone number and email address?

Also, please send us your office phone number.

We miss seeing you at EPW!

All the best,

Randy and Diane

Schumacher Partners International, LLC 1129 20th Street, NW, Suite 300 Washington, DC 20036 202.626.8523 (o) 202.251.9156 (m)

From: Riddle, Ken [Ken.Riddle@lakelandgov.net]

Sent: 4/21/2017 2:40:18 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Bio

Mandy,

Thank you for the bio. If possible, they would like a picture for the brochure. Would you be able to send one ASAP? Also we have a room held for you at the hotel. EPA can pay or whatever, but you have a room for Wednesday night at Disney's Yacht Club.

Ken Riddle

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Friday, April 21, 2017 9:14 AM

To: Riddle, Ken <Ken.Riddle@lakelandgov.net>

Subject: Bio

Hi Ken,

Great chatting with you this morning. My bio is attached. I'll confirm once logistics are set.

Best, Mandy

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From: Shepherd, Ray [rayshepherd@peabodyenergy.com]

Sent: 5/15/2017 3:38:31 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Alternative B

Mandy--

Do you have a moment to discuss Alternative B with me and Dr. Krutka (you met her when we discussed NGS)? We are flying out to Phoenix tonight for the NGS meeting and have a few questions. Many thanks.

--Ray

Sent from my iPad

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From: Leslie Ritts Personal Email / Ex. 6 on behalf of Leslie Ritts [lsritts@rittslawgroup.com]

Sent: 5/15/2017 9:04:47 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; 'GUNASEKARA.'

[MANDY@EPA.gov]

Subject: Copy of NEDA/CAP Comments on Evaluation of Clean Air Act Regulations

Attachments: NEDACAP Recommendations for Evaluation of Existing Clean Air Act Regulations.pdf

Dear Mandy,

I am sending you a copy of NEDA/CAP's CAA Recommendations for Regulatory Relief pursuant to EPA's April 13, 2017 Notice, as we have been told by various OAQPS officials that you are their life-line to Headquarters. NEDA/CAP is a coalition of U.S. manufacturers (listed on the comments) that focuses entirely on implementation of the Clean Air Act.

I have docketed these already. If you have any questions, don't hesitate to send an email or give me a call. It seems that virtually everyone I know has met you, but me. Hopefully that can be remedied in the near future.

With best regards and thanks,

459

Leslie Sue Ritts
Ritts Law Group, PLLC for the
National Environmental Development Assn's
Clean Air Project
620 Fort Williams Parkway
Alexandria, VA 22304
(703) 823-2292 (office)
(571) 970-3721 (fax)
(703) 966-3862 (cell)
Isritts@rittslawgroup.com

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From: Chris Van Atten [vanatten@mjbradley.com]

Sent: 5/12/2017 6:28:39 PM

To: Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Gunasekara, Mandy

[/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Clean Energy Group

Attachments: CEG_RegReform_05_12_2017.pdf

Please find attached the comments of the Clean Energy Group on EPA's regulatory reform docket. Our comments have also been submitted to the docket. We appreciate the opportunity to comment.

Sincerely, Christopher Van Atten

Christopher Van Atten, Senior Vice President M.J. Bradley & Associates LLC 47 Junction Square Drive Concord, MA 01742

Phone: (978) 369-5533 Cell: (978) 844-3085 Fax: (978) 369-7712

http://www.mjbradley.com

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Sarah Rees
U.S. Environmental Protection Agency
Office of Regulatory Policy and Management
1200 Pennsylvania Avenue, N.W.
Mail Code 1803A
Washington, D.C. 20460
(submitted via regulations.gov)

Re: Regulatory Reform Docket in response to Executive Order 13777

Dear Ms. Rees:

The Clean Energy Group appreciates the opportunity to comment on the regulatory reform process initiated by Executive Order 13777, seeking input on regulations that may be appropriate for repeal, replacement, or modification.¹

We believe that there are opportunities for streamlining existing EPA regulations and reporting requirements without sacrificing important public health and environmental protections. For this letter, we focus our comments on changes that we believe can be made under EPA's existing legal authority.

We also believe that there are regulations that should not be changed or eliminated because they provide important public health benefits at reasonable cost. Since 1990, the electric power sector has sharply reduced its air emissions. Notably, the industry has reduced its sulfur dioxide (SO_2) and nitrogen oxide (NOx) emissions by 91 percent and 82 percent, respectively, relative to 1990 levels. The electric sector has reduced its aggregate SO_2 and NOx emissions to less than 1.5 million tons and roughly 1.2 million tons in 2016, respectively. Programs established by the Clean Air Act have been a big part of this success story with measured improvements in ambient air quality. This tremendous progress has been accomplished while maintaining a reliable and affordable electric system, with a significant expansion in clean energy generation.

We have compiled our recommendations based on input from the individuals that are directly responsible for environmental regulatory compliance, environmental permitting, and emissions reporting at a wide range of electric generating facilities.

Again, we appreciate the opportunity to comment and look forward to continued engagement as the Task Force continues its work.

.

¹ Austin Energy, Calpine Corporation, Capital Power, Consolidated Edison, Inc., Entergy Corporation, National Grid, New York Power Authority, NextEra Energy, PG&E Corporation, and Tenaska.

Air Permitting

New Source Review (NSR) is one of many programs established by the Clean Air Act to reduce emissions of air pollutants—particularly "criteria air pollutants". The primary function of the NSR program is to ensure that new or substantially modified sources achieve emission rates that reflect the performance of best-available emissions control technologies (BACT or LAER). There have been repeated efforts since its inception to change the program based on the view that the NSR program is complicated and may serve as an impediment to facility upgrades that improve energy efficiency and reliability.

In 2001, President Bush's National Energy Policy Development Group directed EPA to conduct a 90-day study of the impact of NSR regulations. The Agency's review of the NSR program was broad-based. EPA held four public hearings, had individual meetings with over 100 groups representing the public, industry and State and local agencies, and reviewed over 130,000 comments from private citizens, environmental groups, state officials and industry representatives. Based on its review, EPA concluded that the NSR program was not significantly impeding investment in new power plants. An informal survey of our members found that this is still the case today.

In considering options to simplify or improve the NSR program, ideally, we would like to see nationwide caps on emissions with the flexibility of trading, rather than relying on project-by-project permitting reviews. However, we recognize that this would require Congressional action.

In the absence of legislative action, we do think it would be helpful if EPA developed an updated set of guidelines on the application of NSR to new and modified sources given the numerous past reform efforts and legal decisions interpreting EPA's authority under the Clean Air Act. We think this would be helpful for industry and state permitting authorities to ensure consistent application of the rules across jurisdictions.

We also understand that the NSR program will be part of EPA's regulatory review. Today, gas turbine manufacturers offer upgrade packages to improve unit efficiency.³ However, the NSR rules will sometimes force a facility owner to only partially implement the performance upgrade or limit dispatch in order to avoid triggering NSR thresholds and upgrading controls. Depending on the location, this may result in the dispatch of other less efficient units once operational limits are reached. We recommend that EPA examine the extent to which NSR may be discouraging efficiency upgrades and if there are legally durable regulatory options to propose for comment, while recognizing the existing case law.

Two areas to consider evaluating include: (1) the methodology used for determining whether a physical change or change in the method of operation at a facility results in an emissions increase; and (2) potential opportunities to account for the reductions in emissions that have occurred through the installation of advanced pollution control technologies. Additionally, we would encourage EPA to evaluate whether the geographic limitations on the sourcing of offsets could be expanded, particularly as industry has continued to reduce its air emissions and offsets become harder to procure. In the Ozone Transport Region (OTR), for example, New York and certain other Northeast states have reciprocal trading agreements that limit the extent to which Emission Reduction Credits (ERCs) can be

² When we refer to New Source Review, we are referring to both the Prevention of Significant Deterioration (PSD) permitting program and non-attainment New Source Review.

³ See, for example, the Siemens 3-dimensional Turbine Blades & Vanes (Si3D) and General Electric's Advanced Gas Path (AGP) product offerings.

traded across state lines. Given the region's coordinated efforts to address ozone nonattainment, it may be possible to expand these ERC trading boundaries within the region in a more coordinated fashion.

Finally, on December 20, 2016, EPA finalized several changes to the Guideline on Air Quality Models (40 CFR 51 Appendix W), which is used by industry to perform air quality modeling in support of certain types of air permit applications for new and modified sources. We think there are helpful changes made to the guidelines, and the guidelines should go into effect on May 22, 2017, as planned.

Mercury and Air Toxics Standards

In 2011, EPA issued the Mercury and Air Toxics Standards (MATS) for coal- and oil-fired power plants. The standards went into effect for most power plants in April 2015; three years after the rule was published in the Federal Register. On April 15, 2014, the U.S. Court of Appeals for the D.C. Circuit fully upheld the rule. Virtually all facilities subject to the rule have now installed pollution control equipment, switched to cleaner fuels, or retired generating units to comply with the rule. While there are opportunities to streamline the monitoring and reporting requirements under the rule, the emissions standards of the rule should remain in force. Experience has shown that the current standards are achievable, and modifying the rule could be extremely disruptive to the industry, particularly if EPA was forced to recalculate the standards based on an updated database of stack test data (i.e., Section 112 requires that emissions limits for existing sources reflect the average emission rates achieved by the best performing 12 percent of the existing sources for which the Administrator has emissions information and the D.C. Circuit has circumscribed how EPA must perform this calculation). Regulatory certainty is critical for electric utilities as they plan their future investments. To have a major regulation, like MATS, suddenly revised or overturned could result in major stranded investments and ongoing regulatory uncertainty without any benefit to ratepayers, since the controls have already been built and installed. Further, we believe the standards should remain in place even if EPA decides to review the benefits and costs of the rule, given the substantial investments that have been made to comply with the rule.

Under the existing rule, certain affected facilities are required to perform quarterly stack tests to demonstrate continuous compliance with the rule. Stack testing on this frequency can be costly and burdensome to power plant operators. In some cases, often due to the decreased utilization of these units, facilities are required to run simply to complete the necessary testing on schedule, burning additional fuel and increasing emissions. Stack testing for a single oil-fired generating unit can cost in excess of \$60,000 per year, or more than \$15,000 per quarter, and most plants have multiple generating units. EPA should consider whether performance tests could be performed less frequently to reduce the costs of the rule, while still ensuring that the standards are being achieved.

Air Toxics Reporting Requirements

In 1997, EPA expanded the Toxics Release Inventory (TRI) reporting program to include electric generating facilities and six other industrial source categories, including metal mining, coal mining, commercial hazardous waste treatment, chemical and allied products, petroleum bulk terminals, and solvent recovery services. With respect to the electric generating sector, reporting is limited to "facilities that combust coal and/or oil for the purpose of generating electricity for distribution in

commerce". Facilities submit annual reports on their chemical-by-chemical releases to the environment as well as chemicals that are managed through recycling, energy recovery and treatment.

In expanding the program, EPA relied on the authority provided in the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) section 313(b)(1)(B), which states: "The Administrator may add or delete Standard Industrial Classification Codes for purposes of subparagraph (A), but only to the extent necessary to provide that each Standard Industrial Classification Code to which this section applies is relevant to the purposes of this section."

Under the TRI program, natural gas-fired combustion turbine facilities are required to submit reporting forms if they burn even a very limited quantity of ultra-low sulfur distillate fuel oil (No. 2) as a backup fuel. In the latest reporting year, there were many locations with natural gas-fired combustion turbines that reported to the TRI database.

EPA could streamline the TRI reporting program for combustion turbines by (1) eliminating the reporting requirements for units that burn No. 2 distillate fuel oil, or (2) establishing an appropriate minimum threshold quantity of oil that would trigger reporting requirements. For example, in Part 75, a unit where natural gas accounts for at least 90 percent of the unit's average annual heat input in the previous three calendar years is classified as a gas-fired unit, not an oil-fired unit.

Greenhouse Gas Reporting Requirements

In accordance with 40 CFR Part 98 Subpart D (The Mandatory Greenhouse Gas Reporting Program) (GHGRP), Electricity Generation is required to submit reports to EPA on their greenhouse gas emissions by March 31 for the previous calendar year. Companies use the Electronic Greenhouse Gas Reporting Tool (e-GGRT) to report GHG data directly to EPA. This includes emissions of all greenhouse gases. However, this effort is duplicative of the EPA requirement to report carbon dioxide (CO_2) emissions as well as fuel use and other operating parameters to the Air Markets Program Database, in accordance with 40 CFR Part 75. In fact, the EPA uses the Part 75 reporting as the final data and will flag errors in the e-GRRT system if the reported emissions do not match the Part 75 data. EPA could streamline the GHG reporting requirements by simply importing the Air Markets Program Database into the GHG reporting database, rather than requiring a separate reporting process. Companies must also calculate and report their emissions of other GHGs (CH_4 and N_2O) for the GHGRP using default emission factors multiplied by the mass or volume of fuel combusted. This added step could be completed by EPA based on the fuel consumption data reported to the Air Markets data.

Timely Permitting Decisions

In addition to these regulatory reforms, we believe that permitting decisions for energy infrastructure projects could be made on a more timely basis. Permitting delays can significantly impact the economics of a project, and we would encourage EPA to consider options or strategies for streamlining permitting reviews and approvals. This may include clear guidelines, establishing deadlines for the review of permit applications, and adequate staffing.

If you have any questions about these comments, please do not hesitate to contact me at vanatten@mjbradley.com or Carrie Jenks at cjenks@mjbradley.com, and we would welcome the opportunity to meet with EPA staff to discuss our comments further.

Sincerely,

Christopher E. Van Atten
The Clean Energy Group

cc:

Samantha Dravis Brittany Bolen Mandy Gunasekara

Sarah Dunham

Whitmire, Ron [RWhitmire@EnerVest.net]

From:

```
Sent:
             4/27/2017 2:55:21 PM
To:
              Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group
             (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject:
             Fwd: Connecting
Hi Mandy - We're downstairs for our meeting. Thanks
Ron Whitmire
Senior VP & Chief Administrative Officer
EnerVest, Ltd.
713-495-6525
Begin forwarded message:
From: "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov<mailto:Gunasekara.Mandy@epa.gov>>>
Date: April 20, 2017 at 6:36:11 PM EDT
To: "Whitmire, Ron" <RWhitmire@EnerVest.net<mailto:RWhitmire@EnerVest.net>>
Subject: RE: Connecting
Hi Ron,
I'd be happy to meet. I'm available from 11 to 12:30 on the 27th. Does that time work?
----Original Message----
From: Whitmire, Ron [mailto:RWhitmire@EnerVest.net]
Sent: Monday, April 17, 2017 2:20 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov<mailto:Gunasekara.Mandy@epa.gov>>
Subject: RE: Connecting
Hi Mandy - I will be in DC April 27 with a GR colleague and the CEO of our operating company, Jud Walker.
Would you have a few minutes to talk with us that day? Thanks.
Ron Whitmire
Senior Vice President & Chief Administrative Officer EnerVest, Ltd.
713-495-6525
----Original Message----
From: Gunasekara, Amanda [mailto:gunasekara.amanda@epa.gov]
Sent: Wednesday, March 22, 2017 11:06 AM
To: Whitmire, Ron; Gunasekara, Surya
Subject: RE: Connecting
Thank you! Ron, let me know how I can help.
----Original Message----
From: Whitmire, Ron [mailto:RWhitmire@EnerVest.net]
Sent: Wednesday, March 22, 2017 8:27 AM
To: Gunasekara, Surya <Surya@mail.house.gov<mailto:Surya@mail.house.gov>>
Cc: Gunasekara, Amanda <gunasekara.amanda@epa.gov<mailto:gunasekara.amanda@epa.gov>>
Subject: Re: Connecting
Thanks Surya.
Congratulations Mandy!
Ron Whitmire
Senior VP & Chief Administrative Officer EnerVest, Ltd.
713-495-6525
On Mar 22, 2017, at 6:24 AM, Gunasekara, Surya <Surya@mail.house.gov<mailto:Surya@mail.house.gov>> wrote:
You with Mandy.
Surya G. Gunasekara
Chief of Staff
Congressman Renacci (OH-16)
Sent from my iPhone
```

From: romy@globalrcbi.com [Romy@GlobalRCBI.com]

Sent: 4/21/2017 8:31:59 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Picture

Thanks Mandy. Might you have a larger version, it's quite small to go to print with.

Kind regards,

Romy

GLOBAL RCBI Meeting Team! 1-407-438-9600

Romy@GlobalRCBI.com

Website: http://www.globalrcbi.com

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Friday, April 21, 2017 3:28 PM

To: romy@globalrcbi.com

Subject: Picture

Hi Romy,

My picture is attached. I apologize that I don't yet have an official one to send, but that should happen soon – for next

Thank you for your help and I look forward to meeting you and the rest of the group in a few weeks.

Best, Mandy

From: Thornbrugh, Mike [mthornbr@quiktrip.com]

Sent: 5/3/2017 12:48:25 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: recent meeting

Mandy, Thank you for taking the time to meet and discuss issues that have an impact on QuikTrip and our industry. We appreciate your courtesy and candor. If we can be of any further assistance please let us know. Again, we thank you and would like to be considered a source on any issues you deem appropriate. Thanks.

Mike Thornbrugh Manager of Public and Government Affairs 918-615-7937 From: Barr Kelly J [Kelly.Barr@srpnet.com]

Sent: 5/1/2017 12:38:10 PM

Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group To:

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: Coronado Generating Station

Good morning Mandy,

Thanks for your assistance on this. I appreciate your support of the proposal and EPA's willingness to complete it in a timely manner. SRP is anxious to get it across the finish line to provide some certainty for our employees and the rural communities that surround the plant.

I also understand that you might have some questions about the Navajo Generating Station. I was intimately involved in the formation of the Technical Working Group (TWG) to develop a Better-than-Bart alternative for the plant and would be happy to talk with you about how it was developed and its impact on the operation of the plant. I want to assure you that the collaborative solution developed by the TWG, and ultimately adopted by EPA, was innovative and effectively leveraged the impending withdrawal of two of the owners- LADWP and NVEnergy. The EPA's Better-than-Bart Alternative did not cause the unfortunate economic situation that the plant faces today.

If you'd like to discuss it at any time, my direct line is (602)236-5262.

Take care and thanks again.

Kelly

Kelly J. Barr Senior Director, Environmental Management and Chief Sustainability and Compliance Executive

On Apr 24, 2017, at 5:49 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov<mailto:Gunasekara.Mandy@epa.gov>> wrote:

***SRP EXTERNAL EMAIL WARNING: WERE YOU EXPECTING THIS? IS IT CREDIBLE? IF NOT- REPORT IT! ***

Hi Kelly,

We've got it in the works. Thanks for the outreach and I'll keep you posted.

Best,

Mandv

Sent from my iPhone

On Apr 24, 2017, at 8:47 PM, Barr Kelly J <Kelly.Barr@srpnet.com<mailto:Kelly.Barr@srpnet.com>> wrote:

Hello Mandy,

I understand that Region 9 has forwarded the proposed SIP revision and withdrawal of the FIP for the Coronado Generating Station to EPA Headquarters. We are very thankful for Region 9's quick action and, given our really tight timeframe, would really appreciate it if EPA Headquarters could arrange to get it into the Federal Register as soon as possible.

I'm not completely sure of the review process that Headquarters must complete prior Federal Register publication, but anything you can do to move things forward would be most appreciated.

Please don't hesitate to call if you have any questions or need any additional information.

My best,

Kelly

The information in this electronic communication is confidential and may be protected by the attorneyclient privilege, common interest privilege, and/or attorney work product doctrine. It is intended solely for the addressee. Access to this e-mail by anyone else is unauthorized. If you are not the intended recipient, any disclosure, copying, distribution of this message or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful. Please notify us immediately of your receipt of this message by return e-mail, and destroy this communication and all copies thereof, including all attachments. Thank you. Kelly J. Barr, Esq.

Senior Director, Environmental Management & Chief Sustainability and Compliance Executive Phone (602) 236-5262 / Fax (602) 236-6690

From: Catherine Emmerson [catherine@cgastrategies.com]

Sent: 5/15/2017 8:56:20 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Checking In

Flag: Flag for follow up

Hi Mandy

I hope you had a great Mother's Day! I wanted to check in and ask when you might have time for a check in per our last visit - either on the phone or in person whatever is most convenient for you. Thank you, Catherine

Catherine Emmerson CGA Strategies LLC [v] 703.477.3449

[e] catherine@cgastrategies.com

From: David Fialkov [dfialkov@natso.com]

Sent: 5/18/2017 2:48:34 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Thank You

Mandy,

You were very gracious and generous with your time yesterday. It is indeed an unenviable position to be in to take a meeting like that on such a convoluted and political tricky subject, particularly in the middle of what I have no doubt was a very busy day for you. Please know that we recognize and appreciate your efforts and your position.

I look forward to continue working with you on this and other matters.

Dave

--

David H. Fialkov Vice President, Government Relations Legislative and Regulatory Counsel NATSO, Representing America's Travel Centers and Truckstops dfialkov@natso.com (703) 739 - 8501

From: Whitfield, Peter C. [peter.whitfield@hoganlovells.com]

Sent: 4/28/2017 11:35:32 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Automatic reply: HollyFrontier follow-up meeting - May 1, 230 pm

I am currently out of the office on business related travel through May 1. I will be responding to email intermittently. If you need urgent assistance, please call me on my cell 202.669.2160.

From: Eames, Frederick R. [feames@hunton.com]

Sent: 4/20/2017 9:11:58 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Scheduling

Great. Thanks Mandy. Will proceed accordingly.

----Original Message----

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Thursday, April 20, 2017 4:44 PM

To: Eames, Frederick R. Subject: RE: Scheduling

May 1 at 3:30 works for the Administrator. I'm passing along our contact info to the scheduler Sydney to firm it all up.

----Original Message----

From: Eames, Frederick R. [mailto:feames@hunton.com]

Sent: Wednesday, April 19, 2017 6:54 PM

To: Gunasekara, Mandy

Subject: Re: Scheduling

Okay - this WAS the last one I sent. My bad! These are still good so far as I know.

Sent from my iPhone

On Apr 17, 2017, at 11:14 AM, Eames, Frederick R. <feames@hunton.com<mailto:feames@hunton.com>> wrote:

I just realized the ball is in my court - perils of being out of office last week.

You asked about the week of 4/24 or 5/1. It looks like folks are available on 5/1. I have an event that day but will come to EPA if that's the day. Roxann also said she is available on 5/8, 9, 11 and 12.

<https://urldefense.proofpoint.com/v2/url?u=http-3A__image001.jpg&d=DwIGaQ&c=jxhwBfk-KSV6FFIot0PGng&r=iVm7FwnJ9-HT3nuKthItpmg-Ux1tlgPR7ds5B78ASeM&m=a_MOaMllsSpTlsNC8mLz5dUddADE1jsuH_hX2GvwJc&s=qZmLXf9RTO3ozEarRb-k51_k12Eh83UK87iUdqkPYXw&e= >

Frederick Eames

Partner

n

202.778.2245

```
bio<http://webdownload.hunton.com/esignature/bio.aspx?U=04535> | vCard<http://webdownload.hunton.com/esignature/vcard.aspx?U=04535> | blog<https://urldefense.proofpoint.com/v2/url?u=https-
3A__www.huntonnickelreportblog.com_&d=DwIGaQ&c=jxhwBfk-KSV6FFIot0PGng&r=iVm7FWnJ9-HT3nuKthItpmg-Ux1tlgPR7ds5B78ASeM&m=a_MOaMllsSpT-
lSNC8mLz5dUddADE1jsuH_hX2GvwJc&s=T9iNOm2_V0XmGh9AKvRmOc5KvQ2YrL2xmR7PdQ465F8&e= > | LinkedIn<https://urldefense.proofpoint.com/v2/url?u=http-3A__-25C3-25AE-25E2-2580-259A-25C2-25A4https-3A_www.linkedin.com_in_frederick-2Deames-2D2b3215a-25C3-25AE-25E2-2582-25AC-25C2-2590&d=DwIGaQ&c=jxhwBfk-KSV6FFIot0PGng&r=iVm7FWnJ9-HT3nuKthItpmg-Ux1tlgPR7ds5B78ASeM&m=a_MOaMllsSpT-lSNC8mLz5dUddADE1jsuH_hX2GvwJc&s=YKk8HSRl_y2LT-hHm-UAfJwNNnOs_4watiG5xoOOaRs&e= >
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Hunton & Williams LLP
2200 Pennsylvania Avenue, NW
Washington, DC 20037
hunton.comhttp://www.hunton.com

From: The White House [noreply@whitehouse.gov]

Sent: 5/8/2017 12:51:25 AM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RSVP Confirmation

THE WHITE HOUSE

WASHINGTON

Dear Amanda,

Thank you for submitting your RSVP. We have received your information. Please reach out to your point of contact with any questions.

Sincerely, The White House

The White House • 1600 Pennsylvania Avenue, N.W. • Washington, D.C. 20500 • 202-456-1111

From: Paul Cicio [pcicio@carbonleaf.net]

Sent: 5/15/2017 3:28:25 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: IECA Comments on Paris Climate Accord **Attachments**: 05.15.17_Letter to Trump Paris Accord.pdf

Subject: IECA Comments on Paris Climate Accord

Mandy,

Attached is a new letter to President Trump and addresses concerns regarding the Paris Climate Accord. Since we do not have emails to everyone who should receive a copy of this letter in the Administration, I would appreciate if you would please do so for us.

We disagree with comments by some that say staying in the Paris Accord would "spur new investment, strengthen American competitiveness, create jobs, ensure American access to global markets"..etc.

Please do not hesitate to call.

With kind regards,

Paul Cicio
President
Industrial Energy Consumers of America
1776 K Street, NW, Suite 720
Washington, DC 20006
(O) 202-223-1661
(C) 703-216-7402
www.ieca-us.org

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with \$1.0 trillion in annual sales, over 2,300 facilities nationwide, and with more than 1.6 million employees worldwide. It is an organization created to promote the interests of manufacturing companies through advocacy and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: chemical, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, building products, automotive, brewing, independent oil refining, and cement.



Industrial Energy Consumers of America

The Voice of the Industrial Energy Consumers

1776 K Street, NW, Suite 720 • Washington, D.C. 20006 Telephone (202) 223-1420 • www.ieca-us.org

May 15, 2017

The Honorable Donald J. Trump President of the United States The White House 1600 Pennsylvania Avenue, NW Washington, DC 20500

Re: 2015 United Nations Framework Convention on Climate Change COP 21 Paris Agreement

Dear Mr. President:

On behalf of the Industrial Energy Consumers of America (IECA), we thank you for your support of the manufacturing sector. We are a strong proponent of your endeavor to create jobs and economic growth. The purpose of this letter is to provide key perspectives on the Paris Climate Accord, from manufacturing companies that are energy-intensive and trade-exposed (EITE). EITE industries consume about 80 percent of the energy of the U.S. manufacturing sector. As a result, the competitiveness of EITE companies is largely dependent upon the price of natural gas, natural gas feedstock, electricity, coal, and crude oil.

Given the concerns listed below, IECA fails to see the benefit of the Paris Climate Accord. The long-term implications of the Paris Climate Accord, which includes greater future GHG reduction requirements, and raises the prospects for loss of competitiveness and jobs for EITE industries, due to GHG leakage. We disagree with comments by those who say that staying in the agreement will spur investment and American competitiveness, create jobs, and ensure access to global markets. This will certainly not be the case for the EITE industries. Global agreements that do not provide a level playing field for manufacturing, create greater uncertainty, and the Paris Climate Accord does not create a level playing field.

The manufacturing sector already has an incentive to reduce energy consumption and GHG emissions, it is called global competition. Global competition is relentless and requires EITE industries to reduce energy consumption to be competitive. If we are not globally competitive, we cease to exist.

I. INDUSTRIAL ENERGY CONSUMERS OF AMERICA

IECA is a nonpartisan association of leading manufacturing companies with over \$1.0 trillion in annual sales, and with more than 1.6 million employees. IECA membership represents a diverse set of industries including: chemicals, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, glass, industrial gases, building products, automotive, brewing, independent oil refining, and cement.

II. REASONS THAT EITE INDUSTRIES ARE CONCERNED ABOUT GLOBAL CLIMATE AGREEMENTS

All costs of reducing GHG emissions, whether imposed on the electric generation sector or the oil and gas sectors, are eventually imposed upon us, the consumer. We are the ones who eventually bear the costs of government imposed GHG reduction schemes. At the same time, we are often already economically disadvantaged, as compared to global competitors who are subsidized or protected by their governments.

EITE industries are unique in that, if energy costs rise, whether due to GHG reduction mandates or market-related causation, EITEs will move their facilities, shifting GHG emissions and jobs offshore. This is called "industrial GHG leakage." Industrial GHG leakage accomplishes nothing in terms of global GHG emission reductions, because it simply shifts the GHG emissions to another country – and in fact, such leakage may lead to an *increase* in emissions of GHGs and criteria pollutants if manufacturing activity transitions to countries with less efficient manufacturing processes and less stringent environmental standards.

California, with the "AB32" statewide climate program, is a case in point. While it appears that the state is reducing GHG emissions, they are in fact simply shifting GHG emissions to other states or countries. California continues to consume just as much or more EITE products, such as steel, aluminum, chemicals, plastics, paper, and cement. But instead of manufacturing those products in California and benefitting from the jobs that such business would sustain, they import them.

To avoid the perverse and economically damaging consequences of leakage, we must ensure that any climate policy does not tilt the playing field toward our global competitors and place the U.S. at a competitive disadvantage.

III. HISTORY OF SUCCESSFUL GHG REDUCTIONS

For a variety of reasons, including a dedication to energy efficiency and energy cost reductions to improve global competitivness, today's U.S. manufacturing sector's GHG emissions are 26 percent below 1973 levels. The industrial sector is the only U.S. sector whose GHG emissions are below 1973 levels.

IV. PARIS CLIMATE ACCORD

IECA recognizes that the Paris Climate Accord under the United Nations Framework Convention on Climate Change does not directly mandate GHG reductions from the U.S. manufacturing sector, nor does it mandate reductions from our competitors in other countries. However, under the Obama aAministration, the U.S. committed in 2016 to reduce its GHG emissions 26 to 28 percent below 2005 levels by 2025, under a construct that requires participating nations to strengthen their commitments every five years. Furthermore, the U.S. commitment under the agreement is significantly more stringent than the commitments undertaken by some of our largest competitors in the global marketplace, many of whom, including China and India, essentially pledged to continue *increasing* their GHG emissions substantially for the foreseeable future.

Page 3 Industrial Energy Consumers of America

Any U.S. commitment to reduce GHG emissions under an international construct should only have been undertaken through the process prescribed in Article II, Section 2, Clause 2 of the Constitution. IECA believes that U.S. participation in any global agreement to reduce GHG emissions, whether such agreements are binding or not, should be submitted to the U.S. Senate for a vote of ratification. Our forefathers made it clear that the checks and balances between the Executive Branch and Congress are essential.

IECA is wary of international climate agreements because the U.S. manufacturing sector competes globally, and because other countries do subsidize, and will continue to subsidize and provide advantages to their manufacturing sectors, regardless of any global climate agreements. And, importantly, because the U.S. government does not subsidize U.S. EITE industries, we can become non-competitive in the global marketplace. Global GHG reduction agreements may sound well-intentioned at the macro level, but at the micro level, where we reside, it can create significant uncertainty, risk, and job loss. This raises the question of whether manufacturing GHG emissions should be excluded from any type of global climate agreement.

A major country with which the U.S. manufacturing sector competes with is China, who is well known for government intervention in support of subsidizing companies. China's pledge under the Paris Climate Accord would allow it to actually increase GHG emissions by 117 percent by 2030 before they start reducing. China stopped being a developing country manufacturing competitor of the U.S. more than a decade ago. If U.S. manufacturers were required to reduce GHG emissions while China's manufacturing sector was allowed to increase GHG emissions to 2030, it would put us in a perilous competitive disadvantage.

Furthermore, since about 2000, China's manufacturing sector grew from one of the smallest in the world to the largest, surpassing the U.S. Historcally, the U.S. was the largest. And, over that time frame, over 55,000 U.S. manufacturing facilities and millions of manufacturing jobs were lost, primarily to China. While China was increasing manufacturing jobs, the U.S. was losing them. Now, the U.S. manufacturing trade deficit with China is the largest by far of any country in the world, at \$647 billion in 2016.

Climate change, energy, environment, and tax policy are often intertwined and complex. However, these are the areas of our expertise and we desire to work with the White House and Congress to ensure economic growth and jobs in the manufacturing sector. Please let us know how we may be of assistance.

Sincerely,

Paul N. Cicio President

cc: The Honorable Rick Perry, U.S. Department of Energy
The Honorable Scott Pruitt, U.S. Environmental Protection Agency
The Honorable Wilbur Ross, U.S. Department of Commerce
The Honorable Rex Tillerson, U.S. Department of State

From: Bill Becker [bbecker@4cleanair.org]

Sent: 4/21/2017 8:28:45 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: NACAA Meeting

Attachments: AGENDA-NACAASpring2017-withnames (2).docx

Hey Mandy—

Thanks for agreeing to speak. Attached is our agenda. I've included you on the agenda; we'll give you as much time as you need—especially if you bring the Administrator along. Let me know if you have any questions. The venue (Washington Plaza) is on the agenda.

Bill

S. William Becker

Executive Director

National Association of Clean Air Agencies

444 North Capitol St., NW

Washington, DC 20001

(t) 202-624-7864

(c) 301-806-6111

www.4cleanair.org



FINAL AGENDA

NATIONAL ASSOCIATION OF CLEAN AIR AGENCIES SPRING MEMBERSHIP MEETING

April 30 - May 3, 2017

Washington Plaza Hotel 10 Thomas Circle, N.W. Washington, DC

Sunday,	Anril	30	2017
Sunuav.	ADIII	JU.	2017

8:30 a.m. – 12:30 p.m. NACAA Board of Directors and Committee Chairs' Meeting

5:00 p.m. (and throughout Reception Lapidus Suite the evening)

Monday, May 1, 2017

7:00 a.m. — 8:30 a.m. Continental Breakfast Pre-function Area

8:00 a.m. – 8:30 a.m. Registration Pre-function Area

8:30 a.m. – 9:00 a.m. Welcome and Introductions by National Ballroom

NACAA Co-Presidents
Dave Klemp (Montana)
Craig Kenworthy (Seattle, WA)

9:00 a.m. – 9:30 a.m. NACAA Executive Director's Report National Ballroom

Bill Becker (NACAA)

9:30 a.m. – 10:30 a.m. Public Health and Air Quality National Ballroom

Moderator: Anne Gobin (Connecticut)

Speaker:

Kevin Cromar, New York University
 Marron Institute of Urban Management

10:30 a.m. – 11:00 a.m. Break Pre-function Area

11:00 a.m. – 12:00 p.m. Congressional Clean Air Priorities in National Ballroom

the 115th Congress

Moderator: Bill Becker (NACAA)

Speakers:

• Laura Haynes Gillam (Senate EPW, Minority)

• Peter Spencer (House E&C, Majority)

• Jean Fruci (House E&C, Minority)

Monday, May 1, 2017, continued

Grand Ballroom B & C 12:00 p.m. - 1:30 p.m. Lunch Guest Speaker: Senator Tom Carper (D-DE) 1:30 p.m. - 3:00 p.m. Stakeholder Views on Regulatory and National Ballroom Legislative Clean Air Agenda Moderator: Craig Kenworthy (Seattle, WA) Speakers: John Walke, NRDC Ross Eisenberg, NAM Paul Billings, ALA • Quin Shea, EEI 3:00 p.m. - 3:30 p.m. Break Pre-function Area 3:30 p.m. - 4:45 p.m. Update from 3N Partners on Energy and National Ballroom **Utility Issues** Moderator: Mike Dowd (Virginia) Speakers: Greg White, NARUC Jeff Genzer, NASEO NACAA Banquet and Retirement 6:30 p.m. - 9:30 p.m. The Hamilton 600 14th Street, NW Celebration for Bill Becker Tuesday, May 2, 2017 7:00 a.m. - 8:30 a.m. Continental Breakfast Pre-function Area 8:30 a.m. - 10:00 a.m. **EPA Senior Management: Near-Term National Ballroom** Agenda of the Office of Air and Radiation Moderator: Dave Klemp (Montana) Speakers: Sarah Dunham (Acting Assistant Administrator, EPA-OAR) Steve Page (Director, EPA-OAQPS)

Chris Grundler (Director, EPA-OTAQ)
Reid Harvey (Acting Director, EPA-OAP)

10:30 a.m. – 11:45 a.m. Components of a Successful Exceptional Events Demonstration

10:00 a.m. - 10:30 a.m.

Moderator: Charlene Albee (Reno, NV)

Speakers:

Break

Beth Palma (EPA-OAQPS)Bradley Busby (Arizona)

[PAGE * MERGEFORMAT]

Pre-function Area

National Ballroom

Tuesday, May 2, 2017, continued

11:45 a.m. – 12:45 p.m. Building Enforcement Relationships: National Ballroom

A Discussion with OECA

Moderators: Eddie Terrill (Oklahoma)

Richard Stedman (Monterey, CA)

Speakers:

• Phillip Brooks (EPA-OECA)

• Apple Chapman (EPA-OECA)

12:45 p.m. – 2:15 p.m. Lunch **Grand Ballroom B & C**

2:15 p.m. – 3:45 p.m. Implementing the Volkswagen Defeat National Ballroom

Device Settlement

Moderator: Stu Clark (Washington)

Speakers:

Jennifer Keller (EPA-OTAQ)

• Ellen Peter (California)

Mike Dowd (Virginia)

Matthew Nelson (Electrify America)

3:45 p.m. – 4:00 p.m. Break

4:00 p.m. - 5:00 p.m. NACAA Business Meeting National Ballroom

1. Approval of Minutes of 2016 Fall Meeting

2. Treasury Report

3. Speakers:

Mandy Gunasekara (Senior Policy Advisor to Administrator Pruitt)

Wayne Nastri (SCAQMD), Clean Air Fund Proposal

4. Other Business

Wednesday, May 3, 2017

7:00 a.m. — 8:30 a.m. Continental Breakfast Pre-function Area

8:30 a.m. – 9:30 a.m. Air Quality Issues Related to Regulating National Ballroom

Marijuana: Into the Weeds

Moderator: Craig Kenworthy (Seattle, WA)

Speakers:

• Julie Oliver (Spokane, WA)

• Ken Lloyd (Denver, CO)

9:30 a.m. – 10:00 a.m. Break and Check-out

10:00 a.m. – 11:15 a.m. Timely Monitoring Issues National Ballroom

Moderator: Sam Rubens (Akron, OH)

Speakers:

EPA Update

Chet Wayland (EPA-OAQPS)

Lakeshore Meteorology and Ozone Transport

Gail Good (Wisconsin)

[PAGE * MERGEFORMAT]

• Refinery Fenceline and Community Monitoring Eric Stevenson (San Francisco, CA)

11:15 a.m. Adjourn (4/21/2017)

[PAGE * MERGEFORMAT]

From: Riddle, Ken [Ken.Riddle@lakelandgov.net]

Sent: 4/28/2017 5:42:40 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Re: Breakfast Meeting Thursday

```
I'll check.
> On Apr 28, 2017, at 1:41 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:
> That's fine. I guess I set myself up for a 7 am meeting, but would it be too much trouble to move to 8
or 8:30?
> ----Original Message----
> From: Riddle, Ken [mailto:Ken.Riddle@lakelandgov.net]
> Sent: Friday, April 28, 2017 1:38 PM
> To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
> Subject: Breakfast Meeting Thursday
> Mandy,
> I have a meeting set up with a private room for 7 am Thursday morning. The meeting will be, besides
yourself, Sean McGinnis our environmental specialist, Mike Beckham our Assistant General Manger,
potentially Joel Ivy our General Manager, and me. Will this work for you?
>
 Ken Riddle
> 863-660-3626
> PUBLIC RECORDS NOTICE:
> All e-mail sent to and received from the City of Lakeland, Florida, including e-mail addresses and
content, are subject to the provisions of the Florida Public Records Law, Florida Statute Chapter 119,
and may be subject to disclosure.
>
>
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> *****WARNING: This is an email from an external sender. DO NOT click on links or attachments unless you know the content is safe. If you are unsure about an email, contact 4ISHELP.****

[DISCUSSION DRAFT]

115TH CONGRESS 1st Session

H.R.

To amend the Safe Drinking Water Act to improve public water systems and enhance compliance with such Act, and for other purposes. IN THE HOUSE OF REPRESENTATIVES ____ introduced the following bill; which was referred to the Committee on ____

A BILL

- To amend the Safe Drinking Water Act to improve public water systems and enhance compliance with such Act, and for other purposes.
 - 1 Be it enacted by the Senate and House of Representa-
 - tives of the United States of America in Congress assembled,
 - 3 SECTION 1. SHORT TITLE.
 - This Act may be cited as the "Drinking Water Sys-4
 - tem Improvement Act of 2017".

1	SEC. 2. CONTRACTUAL AGREEMENTS.
2	(a) In General.—Section 1414(h)(1) of the Safe
3	Drinking Water Act (42 U.S.C. 300g-3(h)(1)) is amend-
4	ed—
5	(1) in subparagraph (B), by striking "or" after
6	the semicolon;
7	(2) in subparagraph (C), by striking the period
8	at the end and inserting "; or"; and
9	(3) by adding at the end the following new sub-
10	paragraph:
11	"(D) entering into a contractual agreement
12	for significant management or administrative
13	functions of the system and to correct violations
14	identified in the plan.".
15	(b) Technical Amendment.—Section 1414(i)(1) of
16	the Safe Drinking Water Act (42 U.S.C. 300g-3(i)(1)) is
17	amended by inserting a comma after "1417".
18	SEC. 3. ASSET MANAGEMENT.
19	Section 1420 of the Safe Drinking Water Act (42
20	U.S.C. 300g-9) is amended—
21	(1) in subsection $(c)(2)$ —
22	(A) in subparagraph (D), by striking ";
23	and" and inserting a semicolon;
24	(B) in subparagraph (E), by striking the
25	period at the end and inserting "; and; and

1	(C) by adding at the end the following new
2	subparagraph:
3	"(F) a description of how the State will, as
4	appropriate—
5	"(i) encourage development by public
6	water systems of asset management plans
7	that include best practices for asset man-
8	agement; and
9	"(ii) assist, including through the pro-
10	vision of technical assistance, public water
11	systems in training their operators or other
12	relevant and appropriate persons in imple-
13	menting such asset management plans.";
14	(2) in subsection (e)(3), by inserting ", includ-
15	ing efforts of the State to encourage development by
16	public water systems of asset management plans and
17	to assist public water systems in training appro-
18	priate persons in implementing such asset manage-
19	ment plans" after "public water systems in the
20	State"; and
21	(3) in subsection (d), by adding at the end the
22	following new paragraph:
23	"(5) Information on asset management
24	PRACTICES.—Not later than 5 years after the date
25	of enactment of this paragraph, and at least every

1	5 years thereafter, the Administrator shall review
2	and, if appropriate, update educational materials, in-
3	cluding handbooks, training materials, and technical
4	information, made available by the Administrator to
5	owners, managers, and operators of public water
6	systems, local officials, technical assistance providers
7	(including non-profit water associations), and State
8	personnel concerning best practices for asset man-
9	agement strategies that may be taken by public
10	water systems.".
11	SEC. 4. AUTHORIZATION FOR GRANTS FOR STATE PRO-
12	GRAMS.
13	Section 1443(a)(7) of the Safe Drinking Water Act
14	(42 U.S.C. 300j-2(a)(7)) is amended by striking
15	"\$100,000,000 for each of fiscal years 1997 through
16	2003" and inserting "[\$] for each
17	of fiscal years 2018 through 2022".
18	SEC. 5. STATE REVOLVING LOAN FUNDS.
19	(a) Assistance for Disadvantaged Commu-
20	NITIES.—Section 1452(d)(2) of the Safe Drinking Water
21	Act (42 U.S.C. 300j-12(d)(2)) is amended by striking
22	"30" and inserting "35".
23	(b) Types of Assistance.—Section 1452(f)(1) of
24	the Safe Drinking Water Act (42 U.S.C. 300j–12(f)(1))
25	is amended—

1	(1) by redesignating subparagraphs (C) and
2	(D) as subparagraphs (D) and (E), respectively;
3	(2) by inserting after subparagraph (B) the fol-
4	lowing new subparagraph:
5	"(C) each loan will be fully amortized not
6	later than 30 years after the completion of the
7	project, except that in the case of a disadvan-
8	taged community (as defined in subsection
9	(d)(3)) a State may provide an extended term
10	for a loan, if the extended term—
11	"(i) terminates not later than the date
12	that is 40 years after the date of project
13	completion; and
14	"(ii) does not exceed the expected de-
15	sign life of the project;"; and
16	(3) in subparagraph (B), by striking "1 year
17	after completion of the project for which the loan
18	was made" and all that follows through "design life
19	of the project;" and inserting "18 months after com-
20	pletion of the project for which the loan was made;".
21	SEC. 6. OTHER AUTHORIZED ACTIVITIES.
22	Section 1452(k)(1)(C) of the Safe Drinking Water
23	Act (42 U.S.C. 300j–12(k)(1)(C)) is amended—
24	(2) by striking "for fiscal years 1996 and 1997
25	to delineate and assess source water protection areas

1	in accordance with section 1453" and inserting "to
2	delineate, assess, and update assessments for source
3	water protection areas in accordance with section
4	1453"; and
5	(3) by inserting "and may not be applied to
6	cover costs arising from requirements under the
7	Federal Water Pollution Control Act (33 U.S.C.
8	1251 et seq.)" after "4 fiscal years".
9	SEC. 7. AUTHORIZATION FOR CAPITALIZATION GRANTS TO
10	STATES FOR STATE DRINKING WATER TREAT-
11	MENT REVOLVING LOAN FUNDS.
12	Section 1452(m) of the Safe Drinking Water Act (42
13	U.S.C. 300j-12(m)) is amended—
14	(1) by striking "\$599,000,000 for the fiscal
15	year 1994 and \$1,000,000,000 for each of the fiscal
16	years 1995 through 2003" and inserting
17	"[\$] for each of the fiscal
18	years 2018 through 2022"; and
19	(2) by striking "(prior to the fiscal year
20	2004)".
21	SEC. 8. DEMONSTRATION OF COMPLIANCE WITH FEDERAL
22	CROSS-CUTTING REQUIREMENTS.
23	Section 1452 of the Safe Drinking Water Act (42
24	U.S.C. 300j-12) is amended by adding at the end the fol-
25	lowing new subsection:

1	"(s) Demonstration of Compliance With Fed-
2	ERAL CROSS-CUTTING REQUIREMENTS.—
3	"(1) In general.—Notwithstanding any other
4	provision of law, if the Administrator determines
5	that a demonstration of compliance with a State or
6	local law is equivalent to any demonstration required
7	by the Administrator for compliance with a Federal
8	cross-cutting requirement, the Administrator may
9	accept the demonstration of compliance with such
10	State or local law as demonstration of compliance
11	with the Federal cross-cutting requirement.
12	"(2) Definition.—In this subsection, the term
13	'Federal cross-cutting requirement' means a require-
14	ment of a Federal law or regulation, compliance with
15	which is a condition on receipt of a loan or loan
16	guarantee pursuant to this section, that, if applied
17	with respect to projects and activities for which a
18	public water system receives such a loan or loan
19	guarantee, would be redundant with a requirement
20	of an applicable State or local law "

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one"><enum>1.</enum><header>Short title</header><text display-inline="no-display-
inline">This Act may be cited as the <quote>Drinking Water System Improvement Act of
2017</quote>.</text></section>
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agreements</header>
<subsection id="H1D9388413FE047CAB1831EDCBF0B285A"><enum>(a) /enum><header>In
general</header><text display-inline="yes-display-inline">Section 1414(h)(1) of the
Safe Drinking Water Act (42 U.S.C. 300gâ€"3(h)(1)) is amendedâ€"</text>
<paragraph id="H5182BD0AFE6C4449A08844AC3DCCFAB6"><enum>(1)</enum><text>in subparagraph
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(B), by striking <quote>or</quote> after the semicolon;</text></paragraph>
<paragraph id="H17BC870C901D4693B024A63EFA9AE76C"><enum>(2)/enum><text>in subparagraph
(C), by striking the period at the end and inserting <quote>; or</quote>;
and</text></paragraph>
<paragraph id="H0B86B224711F4B3D8CC5FCC5F206871C"><enum>(3)</enum><text>by adding at
the end the following new subparagraph:</text>
<quoted-block style="OLC" id="HAA3D4ADD14914FB8861CEEA84FA624CA" display-inline="no-
display-inline">
<subparagraph id="HCB51EAD22FDE4CDDA0C35AE4CC99DEF9"><enum>(D)</enum><text display-</pre>
inline="yes-display-inline">entering into a contractual agreement for significant
management or administrative functions of the system and to correct violations
identified in the plan.</text></subparagraph><after-quoted-block>.</after-quoted-
block></quoted-block></paragraph></subsection>
<subsection id="H5466DBBBE51641448A88A328C9148A44"</pre>
commented="no"><enum>(b)</enum><header>Technical amendment</header><text display-
inline="yes-display-inline">Section 1414(i)(1) of the Safe Drinking Water Act (42
U.S.C. 300g\hat{a} \in "3(i)(1)) is amended by inserting a comma after <quote>1417</quote>.
</text></subsection></section>
<section id="HB5B8BD81D19241AEA282E5E7474E543F"</pre>
commented="no"><enum>3.</enum><header>Asset management</header><text display-
inline="no-display-inline">Section 1420 of the Safe Drinking Water Act (42 U.S.C.
300gâ€"9) is amendedâ€"</text>
<paragraph id="H073D71A81D3A4A94B60ED8AA0AFBDB9E"</pre>
commented="no"><enum>(1)</enum><text>in subsection (c)(2)\hat{a}\in"</text>
<subparagraph id="HA632D87D00B24D0EB5EA1AA424809579"><enum>(A) </enum><text>in
subparagraph (D), by striking <quote>; and</quote> and inserting a semicolon;
</text></subparagraph>
<subparagraph id="H096975E205A1454E82E548C397021B50"><enum>(B)</enum><text>in
subparagraph (E), by striking the period at the end and inserting <quote>; and</quote>;
and </text></subparagraph>
<subparagraph id="H5CB50609F16E43B69369A67B987AB4E7"><enum>(C)</enum><text>by adding at
the end the following new subparagraph:</text>
<quoted-block style="OLC" id="HB0849042BA2145D6972467BAECC10F09" display-inline="no-
display-inline">
<subparagraph id="H81FED8D041534006AC5F10EED742A15D"</pre>
commented="no"><enum>(F)</enum><text display-inline="yes-display-inline">a description
of how the State will, as appropriateâ€"</text>
<clause id="H3DD3DB3FE8AB49DCA375A56154DC447F"</pre>
commented="no"><enum>(i)</enum><text>encourage development by public water systems of
asset management plans that include best practices for asset management;
and</text></clause>
<clause id="HC93FFE4E8E1F4D1CBF870DD76B3A3A9B"</pre>
commented="no"><enum>(ii)</enum><text>assist, including through the provision of
technical assistance, public water systems in training their operators or other
relevant and appropriate persons in implementing such asset management
plans.</text></clause></subparagraph><after-quoted-block>; </after-quoted-
block></quoted-block></subparagraph></paragraph>
<paragraph id="H8AC362501D4B4F889792B8FA73DFE974"</pre>
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commented="no"><enum>(2)</enum><text>in subsection (c)(3), by inserting <quote>,
including efforts of the State to encourage development by public water systems of
asset management plans and to assist public water systems in training appropriate
persons in implementing such asset management plans</guote> after <quote>public water
systems in the State</puote>; and</text></paragraph>
<paragraph id="HD266083B8C834748A17AEAB2E784BE25"</pre>
commented="no"><enum>(3)</enum><text>in subsection (d), by adding at the end the
following new paragraph: </text>
<quoted-block style="OLC" id="H84B54860774F48B19FBB78AD9535332C" display-inline="no-</pre>
display-inline">
<paragraph id="H9DA2443532CC4DADAAB9465D95F27F7F"</pre>
commented="no"><enum>(5)</enum><header>Information on asset management
practices</header><text display-inline="yes-display-inline">Not later than 5 years
after the date of enactment of this paragraph, and at least every 5 years thereafter,
the Administrator shall review and, if appropriate, update educational materials,
including handbooks, training materials, and technical information, made available by
the Administrator to owners, managers, and operators of public water systems, local
officials, technical assistance providers (including non-profit water associations),
and State personnel concerning best practices for asset management strategies that may
be taken by public water systems. </text></paragraph><after-quoted-block>. </after-
quoted-block></purtagraph></section>
<section id="HD1BE2DC3F53E46AC957EE3DC7EF182C5"><enum>4.</enum><header>Authorization
for grants for State programs</header><text display-inline="no-display-inline">Section
1443(a)(7) of the Safe Drinking Water Act (42 U.S.C. 300jâ€"2(a)(7)) is amended by
striking <quote>$100,000,000 for each of fiscal years 1997 through 2003</quote> and
inserting <quote><inline-comment display="yes">$ </inline-comment> for each of
fiscal years 2018 through 2022</quote>.</text></section>
<section id="H27F246CD15884D30AA7DB6535944EB34"><enum>5.</enum><header>State revolving
loan funds</header>
<subsection id="H344B53876A1A4805BE4E8A238D402200"><enum>(a)</enum><header>Assistance
for disadvantaged communities</header><text display-inline="yes-display-inline">Section
1452(d)(2) of the Safe Drinking Water Act (42 U.S.C. 300jâ\in"12(d)(2)) is amended by
striking <quote>30</quote> and inserting <quote>35</quote>.</text></subsection>
<subsection id="H8D75E399AEF94F6297CBA89F2422F637"><enum>(b)</enum><header>Types of
assistance</header><text display-inline="yes-display-inline">Section 1452(f)(1) of the
Safe Drinking Water Act (42 U.S.C. 300jâ€"12(f)(1)) is amendedâ€"</text>
<paragraph id="H87C28E2699A148CF9CAC48CE9FEBB4D8"><enum>(1)</enum><text>by
redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E),
respectively; </text></paragraph>
<paragraph id="H16C62882119142F29C0DE5782A9B9828"><enum>(2)</enum><text>by inserting
after subparagraph (B) the following new subparagraph:</text>
<quoted-block display-inline="no-display-inline" id="H4496085EB5F245AAA1ED1D4009EE98E4"
style="OLC">
<subparagraph id="H3A2E0EFA0725449AA210F212E0E975EB"><enum>(C)/text display-
inline="yes-display-inline">each loan will be fully amortized not later than 30 years
after the completion of the project, except that in the case of a disadvantaged
community (as defined in subsection (d)(3)) a State may provide an extended term for a
loan, if the extended termâ€"</text>
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<clause id="H6EA11DD6BC75467D8EF38A0055448B84"><enum>(i)</enum><text>terminates not
later than the date that is 40 years after the date of project completion;
and</text></clause>
<clause id="HB77DB1B6E3DB4B1DAB72445CB6AC5D1E"><enum>(ii)</enum><text>does not exceed
the expected design life of the project;</text></clause></subparagraph><after-quoted-
block>; and</after-quoted-block></quoted-block></paragraph>
<paragraph id="H641CA0BAAA1A45CB8ECA5EC1BA0CA9B5"><enum>(3)/enum><text>in subparagraph
(B), by striking <quote>1 year after completion of the project for which the loan was
made</quote> and all that follows through <quote>design life of the project;</quote>
and inserting <quote>18 months after completion of the project for which the loan was
made;</quote>.</text></paragraph></subsection></section>
<section commented="no" display-inline="no-display-inline"</pre>
id="HCE5FE2F1A7E6406ABA42DEBBF2638E16" section-type="subsequent-
section"><enum>6.</enum><header display-inline="yes-display-inline">Other authorized
activities</header><text display-inline="no-display-inline">Section 1452(k)(1)(C) of
the Safe Drinking Water Act (42 U.S.C. 300jâ\in"12(k)(1)(C)) is amendedâ\in"</text>
<paragraph id="H9F17FBBE557C46C58BFA34767696D46D"</pre>
commented="no"><enum>(2)</enum><text>by striking <quote>for fiscal years 1996 and 1997
to delineate and assess source water protection areas in accordance with section
1453</guote> and inserting <quote>to delineate, assess, and update assessments for
source water protection areas in accordance with section 1453</guote>; and
</text></paragraph>
<paragraph id="H5E737E7CA96048D79955598D4A09FFAC"</pre>
commented="no"><enum>(3)</enum><text>by inserting <quote>and may not be applied to
cover costs arising from requirements under the Federal Water Pollution Control Act (33
U.S.C. 1251 et seq.)quote> after <quote>4 fiscal years
</text></paragraph></section>
<section id="H70034DBDF33D4C26B63D22C25333BBE3"><enum>7.</enum><header>Authorization
for capitalization grants to States for State drinking water treatment revolving loan
funds</header><text display-inline="no-display-inline">Section 1452(m) of the Safe
Drinking Water Act (42 U.S.C. 300jâ€"12(m)) is amendedâ€"</text>
<paragraph id="H8E3F9BE3E3034B00A766B75E62D89CFA"><enum>(1) </enum><text>by striking
<quote>$599,000,000 for the fiscal year 1994 and $1,000,000,000 for each of the fiscal
years 1995 through 2003</quote> and inserting <quote><inline-comment
display="yes">$ </inline-comment> for each of the fiscal years 2018 through
2022</quote>; and</text></paragraph>
<paragraph id="H6CF3F26A40F6410B903485669C7C4A76"</pre>
commented="no"><enum>(2)</enum><text>by striking <quote>(prior to the fiscal year
2004)</quote>. </text></paragraph></section>
<section id="H95D8B1E66F3346D29B204AFC76DCEF00"</pre>
commented="no"><enum>8.</enum><header>Demonstration of compliance with Federal cross-
cutting requirements</header><text display-inline="no-display-inline">Section 1452 of
the Safe Drinking Water Act (42 U.S.C. 300jâ\mathfrak{E}"12) is amended by adding at the end the
following new subsection:</text>
<quoted-block style="OLC" id="H1909CCFC25C946F5A155800ED71F0D5F" display-inline="no-
display-inline">
<subsection id="H24620E422E9C4ED0BF589911EFBB0DC0"</pre>
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commented="no"><enum>(s)</enum><header>Demonstration of compliance with Federal cross-

cutting requirements</header>

<paragraph id="H36BD0EA0626240268B31FA6B562E402E"</pre>

commented="no"><enum>(1)</enum><header>In general</header><text display-inline="yes-display-inline">Notwithstanding any other provision of law, if the Administrator determines that a demonstration of compliance with a State or local law is equivalent to any demonstration required by the Administrator for compliance with a Federal cross-cutting requirement, the Administrator may accept the demonstration of compliance with such State or local law as demonstration of compliance with the Federal cross-cutting requirement.

<paragraph id="H4886822E18304E5C810E2E9D2682D7E6"</pre>

commented="no"><enum>(2)</enum><header>Definition</header><text display-inline="yes-display-inline">In this subsection, the term <term>Federal cross-cutting requirement</term> means a requirement of a Federal law or regulation, compliance with which is a condition on receipt of a loan or loan guarantee pursuant to this section, that, if applied with respect to projects and activities for which a public water system receives such a loan or loan guarantee, would be redundant with a requirement of an applicable State or local law.</text></paragraph></subsection><after-quoted-block></quoted-block></section>

</legis-body>

</bill>

[DISCUSSION DRAFT]

1	SEC. 1. REDEVELOPMENT CERTAINTY FOR GOVERN-
2	MENTAL ENTITIES.
3	(a) Owner or Operator.—Section 101(20)(D) of
4	the Comprehensive Environmental Response, Compensa-
5	tion, and Liability Act of 1980 (42 U.S.C. 9601(20)(D))
6	is amended by striking "ownership or control" and all that
7	follows through "by virtue" and inserting "ownership or
8	control through seizure or otherwise in connection with
9	law enforcement activity, or through bankruptcy, tax de-
10	linquency, abandonment, or other circumstances in which
11	the government acquires title by virtue".
12	(b) Contractual Relationship.—Section
13	101(35)(A) of the Comprehensive Environmental Re-
14	sponse, Compensation, and Liability Act of 1980 (42
15	U.S.C. 9601(35)(A)) is amended—
16	(1) in the matter preceding clause (i), by strik-
17	ing "clause (i), (ii), or (iii)" and inserting "clause (i)
18	or (ii)'';
19	(2) by striking clause (ii); and
20	(3) by redesignating clause (iii) as clause (ii).

1	SEC.	2.	PETROLE	UM BR	OWNFIE	LD	ENHANCEMENT.	
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1	DEC. 2. I ETICOLECTI DICO WINTIBLE ENIMATOLIMINI.
2	Section 101(39)(D)(ii)(II) of the Comprehensive En-
3	vironmental Response, Compensation, and Liability Act of
4	1980 (42 U.S.C. 9601(39)(D)(ii)(II)) is amended by
5	amending item (bb) to read as follows:
6	"(bb) is a site for which there is no
7	viable responsible party and that is deter-
8	mined by the Administrator or the State,
9	as appropriate, to be a site that will be as-
10	sessed, investigated, or cleaned up by a
11	person that is not potentially liable for
12	cleaning up the site under this Act or any
13	other law pertaining to the cleanup of pe-
14	troleum products; and".
15	SEC. 3. CLARIFICATION OF LEASEHOLDER INTEREST.
16	Section 101(40) of the Comprehensive Environmental
17	Response, Compensation, and Liability Act of 1980 (42
18	U.S.C. 9601(40)) is amended—
19	(1) in the matter preceding subparagraph (A),
20	by striking "(or a tenant of a person) that acquires
21	ownership of" and inserting "who acquires an own-
22	ership or leasehold interest in";
23	(2) in subparagraph (A), by inserting "the in-
24	terest in" after "acquired";
25	(3) in subparagraph (B)(ii) by inserting "with
26	respect to a person who acquires an ownership inter-

1	est in a facility. The Administrator shall establish
2	standards and practices with respect to a person
3	who acquires a leasehold interest in a facility" before
4	the period at the end;
5	(4) in subparagraph (H)(i)(II), by inserting ",
6	by the instruments by which the leasehold interest in
7	the facility is acquired after January 11, 2002,"
8	after "financed"; and
9	(5) by adding at the end the following:
10	"(I) Leaseholders.—In the case of a
11	person holding a leasehold interest in a facil-
12	ity—
13	"(i) the leasehold interest in the facil-
14	ity—
15	"(I) is for a term of not less than
16	10 years; and
17	"(II) grants the person control
18	of, and access to, the facility; and
19	"(ii) the person is responsible for the
20	management of all hazardous substances
21	at the facility.".
22	SEC. 4. EXPANDED ELIGIBILITY FOR NONPROFIT ORGANI-
23	ZATIONS.
24	(a) Nonprofit Organizations.—Section 104(k)(1)
25	of the Comprehensive Environmental Response, Com-

1	pensation, and Liability Act of 1980 (42 U.S.C.
2	9604(k)(1)) is amended—
3	(1) in subparagraph (G), by striking "or" after
4	the semicolon;
5	(2) in subparagraph (H), by striking the period
6	at the end and inserting a semicolon; and
7	(3) by adding at the end the following:
8	"(I) an organization described in section
9	501(c)(3) of the Internal Revenue Code of 1986
10	and exempt from taxation under section 501(a)
11	of that Code;
12	"(J) a limited liability corporation in which
13	all managing members are organizations de-
14	scribed in subparagraph (I) or limited liability
15	corporations whose sole members are organiza-
16	tions described in subparagraph (I);
17	"(K) a limited partnership in which all
18	general partners are organizations described in
19	subparagraph (I) or limited liability corpora-
20	tions whose sole members are organizations de-
21	scribed in subparagraph (I); or
22	"(L) a qualified community development
23	entity (as defined in section $45D(c)(1)$ of the
24	Internal Revenue Code of 1986).".

1	(b) Conforming Amendments.—Section 104(k) of
2	the Comprehensive Environmental Response, Compensa-
3	tion, and Liability Act of 1980 (42 U.S.C. 9604(k)) is
4	amended—
5	(1) in paragraph (3)—
6	(A) in subparagraph (A)(ii)—
7	(i) by striking "or nonprofit organiza-
8	tions"; and
9	(ii) by striking "entity or organiza-
10	tion" and inserting "eligible entity"; and
11	(B) in subparagraph (B)(ii)—
12	(i) by striking "or other nonprofit or-
13	ganization"; and
14	(ii) by striking "or nonprofit organiza-
15	tion"; and
16	(2) in paragraph (6)(A), by striking "or non-
17	profit organizations".
18	SEC. 5. TREATMENT OF PUBLICLY OWNED BROWNFIELD
19	SITES.
20	Section 104(k) of the Comprehensive Environmental
21	Response, Compensation, and Liability Act of 1980 (42
22	U.S.C. 9604) is amended—
23	(1) in paragraph (2), by adding at the end the
24	following:

1	"(C) EXEMPTION FOR CERTAIN PUBLICLY
2	OWNED BROWNFIELD SITES.—Notwithstanding
3	any other provision of law, an eligible entity de-
4	scribed in any of subparagraphs (A) through
5	(H) of paragraph (1) may receive a grant under
6	this paragraph for property acquired by that el-
7	igible entity prior to January 11, 2002, even if
8	such eligible entity does not qualify as a bona
9	fide prospective purchaser, so long as the eligi-
10	ble entity has not caused or contributed to a re-
11	lease or threatened release of a hazardous sub-
12	stance at the property."; and
13	(2) in paragraph (3), by adding at the end the
14	following:
15	"(E) Exemption for certain publicly
16	OWNED BROWNFIELD SITES.—Notwithstanding
17	any other provision of law, an eligible entity de-
18	scribed in any of subparagraphs (A) through
19	(H) of paragraph (1) may receive a grant or
20	loan under this paragraph for property acquired
21	by that eligible entity prior to January 11,
22	2002, even if such eligible entity does not qual-
23	ify as a bona fide prospective purchaser, so long
24	as the eligible entity has not caused or contrib-

1	uted to a release or threatened release of a haz-
2	ardous substance at the property.".
3	SEC. 6. REMEDIATION GRANT ENHANCEMENT.
4	Section 104(k)(3)(A)(ii) of the Comprehensive Envi-
5	ronmental Response, Compensation, and Liability Act of
6	1980 (42 U.S.C. 9604(k)(3)(A)(ii)) is amended by strik-
7	ing "\$200,000 for each site to be remediated" and insert-
8	ing "\$500,000 for each site to be remediated, which limit
9	may be waived by the Administrator, but not to exceed
10	a total of \$750,000 for each site, based on the anticipated
11	level of contamination, size, or ownership status of the
12	site".
13	SEC. 7. MULTIPURPOSE BROWNFIELDS GRANTS.
14	Section 104(k) of the Comprehensive Environmental
15	Response, Compensation, and Liability Act of 1980 (42
16	U.S.C. 9604(k)) is amended—
1617	U.S.C. 9604(k)) is amended— (1) by redesignating paragraphs (4) through
17	(1) by redesignating paragraphs (4) through
17 18	(1) by redesignating paragraphs (4) through (12) as paragraphs (5) through (13), respectively;
17 18 19	 (1) by redesignating paragraphs (4) through (12) as paragraphs (5) through (13), respectively; (2) in paragraph (3)(A), by striking "Subject to
17 18 19 20	 (1) by redesignating paragraphs (4) through (12) as paragraphs (5) through (13), respectively; (2) in paragraph (3)(A), by striking "Subject to paragraphs (4) and (5)" and inserting "Subject to
17 18 19 20 21	 (1) by redesignating paragraphs (4) through (12) as paragraphs (5) through (13), respectively; (2) in paragraph (3)(A), by striking "Subject to paragraphs (4) and (5)" and inserting "Subject to paragraphs (5) and (6)";

1	"(A) IN GENERAL.—Subject to subpara-
2	graph (D) and paragraphs (5) and (6), the Ad-
3	ministrator shall establish a program to provide
4	multipurpose grants to an eligible entity based
5	on the criteria under subparagraph (C) and the
6	considerations under paragraph (3)(C), to carry
7	out inventory, characterization, assessment,
8	planning, technical assistance, or remediation
9	activities at 1 or more brownfield sites in an
10	area proposed by the eligible entity.
11	"(B) Grant amounts.—Each grant
12	awarded under this paragraph shall not exceed
13	\$1,000,000.
14	"(C) Criteria.—In awarding a grant
15	under this paragraph, the Administrator shall
16	consider the extent to which the eligible entity
17	is able—
18	"(i) to provide an overall plan for re-
19	vitalization of the 1 or more brownfield
20	sites in the proposed area in which the
21	multipurpose grant will be used;
22	"(ii) to demonstrate a capacity to con-
23	duct the range of activities that will be
24	funded by the multipurpose grant; and

1	"(iii) to demonstrate that a multipur-
2	pose grant will meet the needs of the 1 or
3	more brownfield sites in the proposed area.
4	"(D) Condition.—As a condition of re-
5	ceiving a grant under this paragraph, each eli-
6	gible entity shall expend the full amount of the
7	grant not later than the date that is 5 years
8	after the date on which the grant is awarded to
9	the eligible entity, unless the Administrator pro-
10	vides an extension.
11	"(E) Ownership.—An eligible entity that
12	receives a grant under this paragraph may not
13	expend any of the grant funds on remediation
14	of a brownfield site until such time as the eligi-
15	ble entity owns the brownfield site."; and
16	(4) by striking "(2) or (3)" each place it ap-
17	pears and inserting " (2) , (3) , or (4) ".
18	SEC. 8. ADMINISTRATIVE COSTS FOR GRANT RECIPIENTS.
19	Paragraph (5) of section 104(k) of the Comprehen-
20	sive Environmental Response, Compensation, and Liabil-
21	ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by
22	section 7 of this Act) is amended—
23	(1) in subparagraph (B)—
24	(A) in clause (i)—
25	(i) by striking subclause (III); and

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1	(ii) by redesignating subclauses (IV)
2	and (V) as subclauses (III) and (IV), re-
3	spectively;
4	(B) by striking clause (ii);
5	(C) by redesignating clause (iii) as clause
6	(ii); and
7	(D) in clause (ii) (as redesignated by sub-
8	paragraph (C)), by striking "Notwithstanding
9	clause (i)(IV)" and inserting "Notwithstanding
10	clause (i)(III)"; and
11	(2) by adding at the end the following:
12	"(E) Administrative costs.—
13	"(i) In general.—An eligible entity
14	may use up to 5 percent of the amounts
15	made available under a grant or loan
16	under this subsection for administrative
17	costs.
18	"(ii) Restriction.—For purposes of
19	clause (i), the term 'administrative costs'
20	does not include—
21	"(I) investigation and identifica-
22	tion of the extent of contamination of
23	a brownfield site;
24	"(II) design and performance of
25	a response action; or

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1	"(III) monitoring of a natural re-
2	source.".
3	SEC. 9. RENEWABLE ENERGY ON BROWNFIELD SITES.
4	Paragraph (6) of section 104(k) of the Comprehen-
5	sive Environmental Response, Compensation, and Liabil-
6	ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by
7	section 7 of this Act) is amended by adding at the end
8	of subparagraph (C) the following:
9	"(xi) The extent to which a grant
10	would facilitate the production of renew-
11	able energy on the site.".
12	SEC. 10. BROWNFIELDS FUNDING.
13	Paragraph (13) of section 104(k) of the Comprehen-
14	sive Environmental Response, Compensation, and Liabil-
15	ity Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by
16	section 7 of this Act) is amended to read as follows:
17	"(13) Authorization of appropriations.—
18	There is authorized to be appropriated to carry out
19	this subsection [\$] for each of
20	fiscal years 2017 through 2021.".
21	SEC. 11. STATE RESPONSE PROGRAM FUNDING.
22	Section 128(a)(3) of the Comprehensive Environ-
23	mental Response, Compensation, and Liability Act of
24	1980 (42 U.S.C. 9628(a)(3)) is amended to read as fol-
25	lows:

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1	"(3) Fu	NDIN(3.—Ther	e is au	thorize	d to be	ap-
2	propriated	to	carry	out	this	subsec	tion
3	[\$		for	each o	f fiscal	years 2	017
4	through 2021	.,,					

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entities</header>
<subsection id="H13C3A53778D145F1AE75D80959731F26"><enum>(a)/enum><header>Owner or
operator</header><text display-inline="yes-display-inline">Section 101(20)(D) of the
Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42
U.S.C. 9601(20)(D)) is amended by striking <quote>ownership or control</quote> and all
that follows through <quote>by virtue</quote> and inserting <quote>ownership or control
through seizure or otherwise in connection with law enforcement activity, or through
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bankruptcy, tax delinquency, abandonment, or other circumstances in which the
government acquires title by virtue</quote>.</text> </subsection>
<subsection id="HB54900BBB5924A0CAAD72524DD229DF2"><enum>(b)/enum><header>Contractual
relationship</header><text display-inline="yes-display-inline">Section 101(35)(A) of
the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42
U.S.C. 9601(35)(A)) is amendedâ€"</text>
<paragraph id="HBD20BAFDB59A485AB35C64E805D009A5"><enum>(1)</enum><text>in the matter
preceding clause (i), by striking <quote>clause (i), (ii), or (iii) </quote> and
inserting <quote>clause (i) or (ii) </quote>; </text></paragraph>
<paragraph id="H9932AE6F06994A34A9AADDA4CA4D3B1"><enum>(2)</enum><text>by striking
clause (ii); and</text></paragraph>
<paragraph id="HE9BC524BECE24B459C4D8ABEEB458007"><enum>(3)</enum><text>by
redesignating clause (iii) as clause (ii).</text></paragraph></subsection></section>
<section id="HBBFF0671A7CA4D9B84FF1A1705653271"><enum>2.</enum><header>Petroleum
brownfield enhancement</header><text display-inline="no-display-inline">Section
101(39)(D)(ii)(II) of the Comprehensive Environmental Response, Compensation, and
Liability Act of 1980 (42 U.S.C. 9601(39)(D)(ii)(II)) is amended by amending item (bb)
to read as follows:</text>
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<item id="H8FA75BC25DDB4ED8AD3B3674F04A9F82" indent="up2"><enum>(bb)</enum><text</pre>
display-inline="yes-display-inline">is a site for which there is no viable responsible
party and that is determined by the Administrator or the State, as appropriate, to be a
site that will be assessed, investigated, or cleaned up by a person that is not
potentially liable for cleaning up the site under this Act or any other law pertaining
to the cleanup of petroleum products; and</text></item><after-quoted-block>.</after-
quoted-block></quoted-block></section>
<section id="HABE91801D3C54FC7AAC3868FFCE9DEDC"><enum>3./enum><header>Clarification of
leaseholder interest</header><text display-inline="no-display-inline">Section 101(40)
of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980
(42 U.S.C. 9601(40)) is amendedâ€"</text>
<paragraph id="HBD13A8FA611240E682512ED441B53851"><enum>(1)/enum><text>in the matter
preceding subparagraph (A), by striking <quote>(or a tenant of a person) that acquires
ownership of</quote> and inserting <quote>who acquires an ownership or leasehold
interest in</quote>;</text></paragraph>
<paragraph id="HBBF78296F4A740A28DDB598E945D5915"><enum>(2)/enum><text display-</pre>
inline="yes-display-inline">in subparagraph (A), by inserting <quote>the interest
in</quote> after <quote>acquired</quote>; </text></paragraph>
<paragraph id="HBB6812A66B6B4B4FBBA362F9EE66F785"><enum>(3)</enum><text>in subparagraph
(B)(ii) by inserting <quote>with respect to a person who acquires an ownership interest
in a facility. The Administrator shall establish standards and practices with respect
to a person who acquires a leasehold interest in a facility</quote> before the period
at the end; </text> </paragraph>
<paragraph id="HC7EC8B6389B34DCB843E6C844929EF1D" commented="no"><enum>(4)</enum><text</pre>
display-inline="yes-display-inline">in subparagraph (H)(i)(II), by inserting <quote>,
by the instruments by which the leasehold interest in the facility is acquired after
January 11, 2002, </quote> after <quote>financed</quote>; and</text></paragraph>
<paragraph id="HF24B3D7D5E464884979BC543A6EB19C1"><enum>(5)</enum><text>by adding at
the end the following:</text>
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display-inline">
<subparagraph
id="HD12858EEF60D4048912ED8A88EC11F00"><enum>(I)</enum><header>Leaseholders</header><te
xt display-inline="yes-display-inline">In the case of a person holding a leasehold
interest in a facilityâ€"</text>
<clause id="HEC98F6A1B1644E238E5B6FE318685724"><enum>(i)</enum><text>the leasehold
interest in the facility \hat{a} \in "</\text{text}>
<subclause id="H8B046DB67F8741228D35A27AFF8C8E1D"><enum>(I)</enum><text> is for a term
of not less than 10 years; and</text></subclause>
<subclause id="H6A160ADA72864A79877727182ED26FAB"><enum>(II)</enum><text>grants the
person control of, and access to, the facility; and</text></subclause></clause>
<clause id="HA54E9D7037C3433AA107124050FF4BF9"><enum>(ii)</enum><text display-
inline="yes-display-inline">the person is responsible for the management of all
hazardous substances at the facility.</text></clause></subparagraph><after-quoted-
block>.</after-quoted-block></quoted-block></paragraph></section>
<section id="H21F04529609D403B90CA905CC46C8B84"><enum>4./enum><header>Expanded
eligibility for nonprofit organizations</header>
<subsection id="HBE389C15EA2F4EAC85FFCD7E1D522154"><enum>(a)
organizations</header><text display-inline="yes-display-inline">Section 104(k)(1) of
the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42
U.S.C. 9604(k)(1)) is amendedâ€"</text>
<paragraph id="HE4BC8D68E3454A74B34ED8B06933F676"><enum>(1)</enum><text>in subparagraph
(G), by striking <quote>or</quote> after the semicolon;</text></paragraph>
<paragraph id="HF99716AF79184CF0A65C94D623B0E7DD"><enum>(2)</enum><text>in subparagraph
(H), by striking the period at the end and inserting a semicolon;
and</text></paragraph>
<paragraph id="HAA8EE218CAF0404DAE6BC95BDC617601"><enum>(3)</enum><text>by adding at
the end the following:</text>
<quoted-block id="H58756CCCB1A34148BF0C57ABD36F8C89" style="OLC">
<subparagraph id="HC6C52123AD454DC8B27F7D6938B24C74"><enum>(I) </enum><text>an
organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and
exempt from taxation under section 501(a) of that Code; </text></subparagraph>
<subparagraph id="H7C85AD009B6E426FBF1C4075E86E082E"><enum>(J)</enum><text>a limited
liability corporation in which all managing members are organizations described in
subparagraph (I) or limited liability corporations whose sole members are organizations
described in subparagraph (I);</text></subparagraph>
<subparagraph id="HE1980478EBEB4CF0A9107EC3034B7EF1"><enum>(K)</enum><text>a limited
partnership in which all general partners are organizations described in subparagraph
(I) or limited liability corporations whose sole members are organizations described in
subparagraph (I); or</text></subparagraph>
<subparagraph id="H7E818AABD53240E7AFE114C97379ABAB"><enum>(L)/enum><text>a qualified
community development entity (as defined in section 45D(c)(1) of the Internal Revenue
Code of 1986).</text></subparagraph><after-quoted-block>.</after-quoted-block></quoted-
block></paragraph></subsection>
<subsection id="H6207254CF4A74A409284A2C3E119FD26"</pre>
commented="no"><enum>(b) </enum><header>Conforming amendments</header><text display-
inline="yes-display-inline">Section 104(k) of the Comprehensive Environmental Response,
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<quoted-block style="OLC" id="H3BF37A4EB3394CB28E031975902D699C" display-inline="no-

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Compensation, and Liability Act of 1980 (42 U.S.C. 9604(k)) is amendedâ€"</text>
<paragraph id="HAC3A5B874FBD486995E6EBFB3FF0B362"</pre>
commented="no"><enum>(1)</enum><text>in paragraph (3)â€"</text>
<subparagraph id="HEBB38230C4B24E95A0FC6E281C22953B"</pre>
commented="no"><enum>(A)</enum><text>in subparagraph (A)(ii)â€"</text>
<clause id="H29690C3DF1104BA599F4BB7709374704" commented="no"><enum>(i)</enum><text>by
striking <quote>or nonprofit organizations</quote>; and</text></clause>
<clause id="H5B97F0C2CC3247A7865CE18CDC092645" commented="no"><enum>(ii)</enum><text>by
striking <quote>entity or organization</quote> and inserting <quote>eligible
entity</quote>; and</text></clause></subparagraph>
<subparagraph id="H08FBAAC3F9EB4C79800E71FD731D3F96"</pre>
commented="no"><enum>(B)</enum><text>in subparagraph (B)(ii)â€"</text>
<clause id="H5859FCF57AD8449288127712189C4AC3" commented="no"><enum>(i)</enum><text>by
striking <quote>or other nonprofit organization</quote>; and</text></clause>
<clause id="HD3345309A5B74769A1EC39814306F3F3" commented="no"><enum>(ii)</enum><text>by
striking <quote>or nonprofit organization</quote>;
and</text></clause></subparagraph></paragraph>
<paragraph id="H3F45041D200D42F28FB30CA32AF8B73E"</pre>
commented="no"><enum>(2)</enum><text>in paragraph (6)(A), by striking <quote>or
nonprofit organizations</quote>. </text></paragraph></subsection></section>
<section id="HDA6C469C61F44E5C97FB7A60CECB4B69"><enum>5.</enum><header>Treatment of
publicly owned brownfield sites</header><text display-inline="no-display-
inline">Section 104(k) of the Comprehensive Environmental Response, Compensation, and
Liability Act of 1980 (42 U.S.C. 9604) is amendedâ€"</text>
<paragraph id="HAC13B442419444589C1D5026CCB20F9A"><enum>(1)</enum><text>in paragraph
(2), by adding at the end the following:</text>
<quoted-block id="H9DAE1C9DE00A44A891FC14D967A40A65" style="OLC">
<subparagraph id="H914672B98D0B4C288F3E9801B6D95207"><enum>(C) </enum><header>Exemption
for certain publicly owned brownfield sites</header><text>Notwithstanding any other
provision of law, an eligible entity described in any of subparagraphs (A) through (H)
of paragraph (1) may receive a grant under this paragraph for property acquired by that
eligible entity prior to January 11, 2002, even if such eligible entity does not
qualify as a bona fide prospective purchaser, so long as the eligible entity has not
caused or contributed to a release or threatened release of a hazardous substance at
the property.</text></subparagraph><after-quoted-block>; and</after-quoted-
block></quoted-block></paragraph>
<paragraph id="H436AA264EBB64008994682B75C77DF6D"><enum>(2)</enum><text>in paragraph
(3), by adding at the end the following:</text>
<quoted-block style="OLC" id="HE2BC4D1B4A4D4DCD9038899DEA385943" display-inline="no-
display-inline">
<subparagraph id="H5A0B62AAC12E4730A80009F4726C1B02"><enum>(E)/enum><header>Exemption
for certain publicly owned brownfield sites</header><text display-inline="yes-display-
inline">Notwithstanding any other provision of law, an eligible entity described in any
of subparagraphs (A) through (H) of paragraph (1) may receive a grant or loan under
this paragraph for property acquired by that eligible entity prior to January 11, 2002,
even if such eligible entity does not qualify as a bona fide prospective purchaser, so
long as the eligible entity has not caused or contributed to a release or threatened
release of a hazardous substance at the property.</text></subparagraph><after-quoted-
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<section id="HD3FA96482A394750BFFEA43874891E01"><enum>6.</enum><header>Remediation
grant enhancement</header><text display-inline="no-display-inline">Section
104(k)(3)(A)(ii) of the Comprehensive Environmental Response, Compensation, and
Liability Act of 1980 (42 U.S.C. 9604(k)(3)(A)(ii)) is amended by striking
<quote>$200,000 for each site to be remediated</quote> and inserting <quote>$500,000
for each site to be remediated, which limit may be waived by the Administrator, but not
to exceed a total of $750,000 for each site, based on the anticipated level of
contamination, size, or ownership status of the site</quote>.</text></section>
<section id="HE421E23EBAC74310858602D91107BA00"><enum>7./ enum>/ enum>/ enum>
brownfields grants</header><text display-inline="no-display-inline">Section 104(k) of
the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42
U.S.C. 9604(k)) is amendedâ€"</text>
<paragraph id="H6D77B7E5837D438FAB1BB62B35F2C695"><enum>(1)</enum><text>by
redesignating paragraphs (4) through (12) as paragraphs (5) through (13),
respectively;</text></paragraph>
<paragraph id="HC5C1BBF8E84F419E9343F893E1D921CE"><enum>(2)</enum><text>in paragraph
(3)(A), by striking \leq quote>Subject to paragraphs (4) and (5)\leq quote> and inserting
<quote>Subject to paragraphs (5) and (6)</quote>; </text></paragraph>
<paragraph id="H07631D46DD5044DC88E36B53BEBAE2A2"><enum>(3)</enum><text>by inserting
after paragraph (3) the following:</text>
<quoted-block id="H852FBA7CBC3742669C192928FDD0C99C" style="OLC">
<paragraph id="HF29E9D75E000412E8703C2E7186FFEE7"><enum>(4)</enum><header>Multipurpose
brownfields grants</header>
<subparagraph id="HE47EE2C7FD4F417DBA95F45D06D56CD8"><enum>(A)</enum><header>In
general</header><text>Subject to subparagraph (D) and paragraphs (5) and (6), the
Administrator shall establish a program to provide multipurpose grants to an eligible
entity based on the criteria under subparagraph (C) and the considerations under
paragraph (3)(C), to carry out inventory, characterization, assessment, planning,
technical assistance, or remediation activities at 1 or more brownfield sites in an
area proposed by the eligible entity.</text></subparagraph>
<subparagraph id="HE3904CBB33EB4FBDA58ADE4A00948E99"><enum>(B)</enum><header>Grant
amounts</header><text>Each grant awarded under this paragraph shall not exceed
$1,000,000.</text></subparagraph>
<subparagraph
id="HBC3BF54E4A9F4ED1BF5ED0DC523C6164"><enum>(C)</enum><header>Criteria</header><text>I
n awarding a grant under this paragraph, the Administrator shall consider the extent to
which the eligible entity is ableâ€"</text>
<clause id="H7651A82773B54010912A15B362E0BCF5"><enum>(i)</enum><text>to provide an
overall plan for revitalization of the 1 or more brownfield sites in the proposed area
in which the multipurpose grant will be used;</text></clause>
<clause id="HDC3A72A744664DAB87A9F789E2C0A688"><enum>(ii)</enum><text>to demonstrate a
capacity to conduct the range of activities that will be funded by the multipurpose
grant; and</text></clause>
<clause id="H765E913F66994D3AB3247E8A02119AB4"><enum>(iii)</enum><text>to demonstrate
that a multipurpose grant will meet the needs of the 1 or more brownfield sites in the
proposed area.</text></clause></subparagraph>
<subparagraph
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block>.</after-quoted-block></quoted-block></paragraph></section>

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id="HA6AAD9C147054E929E0E0DBA663A956F"><enum>(D)</enum><header>Condition</header><text>
As a condition of receiving a grant under this paragraph, each eligible entity shall
expend the full amount of the grant not later than the date that is 5 years after the
date on which the grant is awarded to the eligible entity, unless the Administrator
provides an extension.</text></subparagraph>
<subparagraph
id="HE72875AFEFD9418FB0A00694825A83F9"><enum>(E)</enum><header>Ownership</header><text>
An eligible entity that receives a grant under this paragraph may not expend any of the
grant funds on remediation of a brownfield site until such time as the eligible entity
owns the brownfield site.</text></subparagraph></paragraph><after-quoted-block>;
and</after-quoted-block></quoted-block></paragraph>
<paragraph id="HCD5CBC860CA34BBF810B034C4BCEF146"><enum>(4)</enum><text>by striking
<quote>(2) or (3)</quote> each place it appears and inserting <quote>(2), (3), or
(4) </quote>. </text></paragraph></section>
<section id="HD428976E18614B8389449687DF802DC7"</pre>
commented="no"><enum>8.</enum><header>Administrative costs for grant
recipients</header><text display-inline="no-display-inline">Paragraph (5) of section
104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of
1980 (42 U.S.C. 9604(k)) (as redesignated by section 7 of this Act) is
amendedâ€"</text>
<paragraph id="HA07D91589BE24D8CB72418FA3B5F78D8"</pre>
commented="no"><enum>(1)</enum><text>in subparagraph (B)â€"</text>
<subparagraph id="HD4651015EC404F33ACFBC54FDF24B5FC"</pre>
commented="no"><enum>(A)</enum><text>in clause (i) \hat{a} \in"</text>
<clause id="H621781A5C64D462AA7C08067BCF0080C" commented="no"><enum>(i) </enum><text>by
striking subclause (III); and</text></clause>
<clause id="H575CE71215A743EF96AE1A05D5D399E2" commented="no"><enum>(ii) </enum><text>by
redesignating subclauses (IV) and (V) as subclauses (III) and (IV),
respectively;</text></clause></subparagraph>
<subparagraph id="HC9132FE2DB034F7BA5EE5B23109E01BA"</pre>
commented="no"><enum>(B) </enum><text>by striking clause (ii);</text></subparagraph>
<subparagraph id="H5DF4B37346EF4D72A1B00B688C1B0A06"</pre>
commented="no"><enum>(C)</enum><text>by redesignating clause (iii) as clause (iii);
and</text></subparagraph>
<subparagraph id="H6E829DA426564CABBD64CDEB9B9B8443"</pre>
commented="no"><enum>(D)</enum><text>in clause (ii) (as redesignated by subparagraph
(C)), by striking <quote>Notwithstanding clause (i)(IV)</quote> and inserting
<quote>Notwithstanding clause (i) (III) </quote>; and</text></subparagraph></paragraph>
<paragraph id="HE87033E5FF9B40ACA9A3A73442ACEFC9"</pre>
commented="no"><enum>(2)</enum><text>by adding at the end the following:</text>
<quoted-block id="HC7EC25E9C6374B16A0BEA1699F90BFB3" style="OLC">
<subparagraph id="H29A615A7C76348CCACC5524B5380502B"</pre>
commented="no"><enum>(E)</enum><header>Administrative costs</header>
<clause id="HB9236FC67B1E444E8528035A6785B58E"</pre>
commented="no"><enum>(i)</enum><header>In general</header><text>An eligible entity may
use up to 5 percent of the amounts made available under a grant or loan under this
subsection for administrative costs.</text></clause>
<clause id="HABC86E53A1EC442991B57E5B38D7555F"</pre>
```

```
commented="no"><enum>(ii)</enum><header>Restriction</header><text>For purposes of
clause (i), the term <term>administrative costs</term> does not include \hat{a} \in \text{"}</\text{text}>
<subclause id="HD89D7A7CDB9F45FC8F9AAC844F16D77F"</pre>
commented="no"><enum>(I)</enum><text>investigation and identification of the extent of
contamination of a brownfield site; </text></subclause>
<subclause id="H53EB392A27314CD9BB75942E70C33603"</pre>
commented="no"><enum>(II) </enum><text>design and performance of a response action;
or</text></subclause>
<subclause id="H77F9B47B348C47E7953254D40BAE6A8B"</pre>
commented="no"><enum>(III)</enum><text>monitoring of a natural
resource.</text></subclause></subparagraph><after-quoted-block>.</after-
guoted-block></quoted-block></paragraph></section>
<section id="H3FA323C47DDE490C9EC2BBEB90CC3CAA"><enum>9.</enum><header>Renewable energy
on brownfield sites</header><text display-inline="no-display-inline">Paragraph (6) of
section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability
Act of 1980 (42 U.S.C. 9604(k)) (as redesignated by section 7 of this Act) is amended
by adding at the end of subparagraph (C) the following:</text>
<quoted-block style="OLC" id="HCD23152C5A004F1DA6742209838FF23A" display-inline="no-</pre>
display-inline">
<clause id="HB4EA4D3657644F64A4BD29011472D4B5"><enum>(xi)</enum><text display-
inline="yes-display-inline">The extent to which a grant would facilitate the production
of renewable energy on the site.</text></clause><after-quoted-block>.</after-quoted-
block></guoted-block></section>
<section id="H45BC2DDC6E364D42BE824FC666AD8552"><enum>10.</enum><header>Brownfields
funding</header><text display-inline="no-display-inline">Paragraph (13) of section
104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of
1980 (42 U.S.C. 9604(k)) (as redesignated by section 7 of this Act) is amended to read
as follows:</text>
<quoted-block id="HAF62A35D362C422BAAB2484EDD27B7A7" style="OLC">
<paragraph</pre>
id="H260365896B3F409C9A5BAE63ED928510"><enum>(13)</enum><header>Authorization of
appropriations</header><text>There is authorized to be appropriated to carry out this
subsection <inline-comment display="yes">$
                                             </inline-comment> for each of fiscal
years 2017 through 2021.</text></paragraph><after-quoted-block>.</after-quoted-
block></quoted-block></section>
<section id="HA33C940694D04820B0343642012F5D7D"><enum>11.</enum><header>State response
program funding</header><text display-inline="no-display-inline">Section 128(a)(3) of
the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42
U.S.C. 9628(a)(3)) is amended to read as follows: </text>
<quoted-block style="OLC" id="H40B4FD53893242E78A0F0FA2BF89C7F3" display-inline="no-
display-inline">
<paragraph</pre>
id="HBDD46B94F3194FCD8C3D9BA25D257766"><enum>(3)</enum><header>Funding</header><text>Th
ere is authorized to be appropriated to carry out this subsection <inline-comment
display="yes">$ </inline-comment> for each of fiscal years 2017 through
2021.</text></paragraph><after-quoted-block>.</after-quoted-block></quoted-
block></section>
</legis-body>
```

From: Clowser, Jessica (Fischer) [Jessica_Clowser@fischer.senate.gov]

Sent: 5/3/2017 8:06:46 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RVP Waiver Authority

Hey, Mandy,

I hope all is well – I saw Surya last night at the Duckers dinner, he was trying to navigate the maze of dinner tables. © Question – I just want to triple check with you on the RVP waiver – it has be done through Congressional action correct? It cannot be done administratively correct?

Thanks!

Jess

Jessica Clowser

Legislative Assistant Office of U.S. Senator Deb Fischer

454 Russell Senate Office Building | Washington, DC 20510 202.224.5908 (direct) 202.224.6551 (main) Jessica Clowser@fischer.senate.gov







From: Keniece Barbee [kbarbee@corn.org]

Sent: 4/19/2017 2:24:46 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Kyle Harris [kharris@corn.org]; Washington, Valerie [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=9d031c02ce3a416dad0d421ee998d5a3-VWASHING]

Subject: RE: Biogenic CO2

Hi Mandy,

Thank you for the email. Look forward to setting a time that works for you.

John would like to bring Kyle Harris, Manager of Environmental Affairs for CRA and Max Williamson who is a Clean Air Act Attorney and outside counsel for CRA to join the meeting.

Valerie, I will email you separately to find a time that works for all. Thank you.

Regards,

Keniece Barbee

Assistant to President and C.E.O. Corn Refiners Association



1701 Pennsylvania Avenue, N.W.

Suite 950

Washington, DC 20006 Main: (202) 331-1634 Direct: (202) 534-3491 Fax: (202) 331-2054 www.corn.org

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From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Wednesday, April 19, 2017 9:22 AM **To:** Keniece Barbee <kbarbee@corn.org>

Cc: Kyle Harris kharris@corn.org; Washington, Valerie < Washington. Valerie@epa.gov>

Subject: RE: Biogenic CO2

Hi Keniece,

Thank you for the follow-up. I believe I'm available the afternoon of May 2nd. I've cc'd Valerie Washington who can help set-up the timing and location logistics. I'd love to come to the CRA offices, but given the busy schedule, it would work best to have the meeting here at EPA.

Best, Mandy From: Keniece Barbee [mailto:kbarbee@corn.org]

Sent: Monday, April 17, 2017 12:09 PM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Cc: Kyle Harris < kharris@corn.org>

Subject: RE: Biogenic CO2

Hello Mandy,

I hope you enjoyed your weekend. John looks forward to meeting with you, unfortunately he is on vacation this week and comes back to a flood of meetings, board work and other scheduling items the next.

Would you be available to meet on Tuesday May 2nd between 1-4:00P? John would be happy to host here at CRA or come to your offices. Thank you so much and I look forward to hearing from you.

Regards,

Keniece Barbee

Assistant to President and C.E.O. Corn Refiners Association



1701 Pennsylvania Avenue, N.W.

Suite 950

www.corn.org

Washington, DC 20006 Main: (202) 331-1634 Direct: (202) 534-3491 Fax: (202) 331-2054

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From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Thursday, April 13, 2017 6:10 PM To: John Bode < <u>IBode@corn.org</u>>

Subject: Biogenic CO2

Hi John,

Byron Brown sent along a note where you were looking to get in touch with the right person to talk about biogenic carbon. I'm the Administrator's Senior Policy Advisor for Air and Radiation, so the biogenic carbon issue falls squarely into my purview. I would love to follow-up and touch base on what all was discussed at the Ag lunch and how we can help. Please let me know what your availability is over the next few weeks and I look forward to touching base soon.

Best,

Mandy

From: Clint Woods [cwoods@csg.org]

Sent: 4/26/2017 2:51:29 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Sorry I missed you

Staff meeting ran long. Feel free to give me a call whenever convenient

Clint

859-244-8040

From: Michael.McAdams@hklaw.com [Michael.McAdams@hklaw.com]

Sent: 5/12/2017 3:54:07 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: meeting

Mandy: Congratulations on your new position at EPA. Many of my colleagues have had great things to say about your work on the RFS program. As I am sure my colleague told you, I am the President of the Advanced Biofuels Association. We represent 40 companies from around the world involved in the production distribution and sale of Advanced Biofuels. I only represent advanced fuels and do not represent corn ethanol. For the last three years our organization has been the only renewable association supporting the reform of the RFS program. We believe that the current program has been tremendous for the first generation fuels but has fallen well short of the Congressional intent particularly in the cellulosic sector. We currently represent over 3 billion gallons of biodiesel and renewable diesel both in the United States and abroad.

I would very much appreciate the opportunity to meet with you and discuss the various issues which are surrounding the RFS that draw our attention from the Advanced side of the industry. Thank you very much for the work you do and your consideration of an opportunity to discuss these issues at your convenience. All the best,

Michael McAdams | Holland & Knight

President, ABFA

Sr Policy Advisor

Holland & Knight LLP

800 17th Street N.W., Suite 1100 | Washington, DC 20006

Phone 202.469.5140 | Fax 202.955.5564

michael.mcadams@hklaw.com | www.hklaw.com

NOTE: This e-mail is from a law firm, Holland & Knight LLP ("H&K"), and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of H&K, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to H&K in reply that you expect it to hold in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of H&K, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

From: info@eastfuelconf.com [info@eastfuelconf.com]

Sent: 4/21/2017 8:26:44 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: [SPAM] ** Thank you for registering Mandy M, for the EFBC!

The following comp registration was processed:

Name: Mandy M Gunasekara

Organization: Environmental Protection Agency

First Time Attendee: yes

Badge Name: Mandy

Email: Gunasekara.Mandy@epa.gov

Alternate Email:

Job Title: Senior Policy Advisor

Company Type: other Phone: 202-564-2314 Mobile: 202-306-8538

FAX:

Address: 1200 Pennsylvania Avenue NW, Suite 1101-A

City: Washington

State: DC Zip: 20460

Country: United States

Wednesday Activity: None

Golf Handicap: 0
Club Preferences:

Massage/Mani-Pedi Time:

Wednesday Welcome Reception: yes

Thursday Breakfast: yes
Thursday Luncheon: yes
Thursday Dinner: no

Guest dinner tickets: 0

Guest's name:

Friday Breakfast: no

Dietary Restrictions or Special Needs: speaker

From: Matt Ogren [MOgren@insightwebpoll.com]

Sent: 5/3/2017 12:00:45 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-

Gunasekara,]

Subject: Contribute to the TradeMarks 2017 survey results

Hello Amanda Gunasekara,

APCO Worldwide is conducting a confidential opinion survey examining what makes a trade association an effective public policy advocate. I invite you to share your views and contribute to this one-of-a-kind study.

Everyone who completes the 15-minute survey will receive an advance copy of the study's executive summary. In addition, APCO will be making a \$1,000 charitable contribution to each of five charities selected by individuals completing the survey.

Please be assured that this survey is completely confidential, and that your name and affiliation will not be reported with the responses you provide in any public forum; we further recognize that you are sharing your personal opinions and not those of any organization.

To complete the survey online, please click on the button below.

SPARADNOM

Alternatively, you can copy and paste the following URL into your internet browser:

http://www.insightwebpoll.com/association2017&p=E4754

We understand that you are very busy. If you prefer to complete this survey by telephone, a representative will be contacting you to schedule a time that is convenient for you.

Because a limited number of individuals in the Washington area have been asked to share their opinions, **your participation is very important**. We hope you will set aside about 15 minutes to complete this online survey today, or to speak with our representative when he or she calls.

Should you have any questions or difficulties completing this survey, please feel free to contact me.

Thank you for your participation,

Matt Ogren
Study Director

5086 List Drive, Colorado Springs, CO 80919 Unsubscribe

From: Dominguez, Alex [Alex.Dominguez@mail.house.gov]

Sent: 4/17/2017 2:42:17 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Fwd:

Attachments: Dominguez_Resume 2017.pdf; ATT00001.htm

Sorry for just getting back to you on the road in the district this week. Appreciate it and anything else just let me know.

Sent from my iPhone

Begin forwarded message:

From: "Dominguez, Alex" < Alex. Dominguez@mail.house.gov >

Date: April 17, 2017 at 10:15:39 AM EDT

To: "Dominguez, Alex" < Alex. Dominguez@mail.house.gov >

Alex Dominguez

Legislative Assistant Congressman Jim Renacci (OH-16) 328 Cannon House Office Bldg. 202-225-3876

From: Clint Woods [cwoods@csg.org]

Sent: 5/19/2017 5:32:33 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: FW: Maine DEP written comments on proposed NSPS

Attachments: Signed Final Comment on Wood Heater NSPS with Appendix A and Appendix B.pdf

And also very helpful info on pages 15 - 17 of Maine's reg reform comments.

From: Cone, Marc A [mailto:Marc.A.Cone@maine.gov]

Sent: Thursday, May 18, 2017 4:12 PM

To: Clint Woods; Alteri, Sean (EEC) (Sean.Alteri@ky.gov) **Subject:** Maine DEP written comments on proposed NSPS

Clint and Sean,

Here is what Maine submitted for comments on the wood heater NSPS a few years ago. On a NESCAUM Directors call yesterday the rumor was the NSPS was going to be reopened. Of course my colleagues up here thought that would not be advantageous, but Maine recognized the rule could be better and achieve greater environmental gains if other considerations were recognized. Anyway if there is an opportunity to collaborate with industry and EPA to make this rule better Maine would like to be part of the solution. Sean not sure your state commented or looked into this but I would be glad to go over our positions if you want. Thanks.

Marc

Marc A. R. Cone P.E.
Bureau of Air Quality, Director
Maine Department of Environmental Protection
State House Station 17
Augusta, Maine 04333-0017
207-287-1932
marc.a.cone@maine.gov

STATE OF MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION





COMMISSIONER

May 5, 2014

Ms. Regina McCarthy Administrator **Environmental Protection Agency** 1200 Pennsylvania Ave., NW Washington, DC, 20460

RE: Docket ID: EPA-HQ-OAR-2009-0734

Proposed Updates to the Residential Wood Heater New Source Performance Standards (NSPS)

Dear Ms. McCarthy,

The Maine Department of Environmental Protection (DEP, "Department") appreciates the Environmental Protection Agency's (EPA) solicitation of comments on the proposed updates to the 1988 Residential Wood Heater New Source Performance Standards (NSPS), 40 CFR Part 60, Subpart AAA, and the proposed new NSPS Subparts QQQQ and RRRR. The Department and the people of Maine take pride in and value that we meet all current National Ambient Air Quality Standards (NAAQS) and appreciate efforts, both large and small, to protect this vital natural resource for our state, region and nation.

Maine supports regulations which result in more efficient and environmentally beneficial wood-burning devices and agrees with the proposal's goal to reduce the amount of wood smoke in our air. Maine also supports emission reductions based on sound, scientifically-proven certification testing methods for such wood burning units. Although the Department applauds and agrees with EPA on several components of the proposal, there are areas of the proposal that create concern for our citizens, our forest products industry, associated manufacturers, and the range of small businesses which exist to meet needs related to residential wood burning in our predominantly rural state.

According to the U.S. Energy Information Administration (EIA), from 2005 - 2012, the northeastern U.S. has seen the highest increase in the use of wood as the main source of household heating. More importantly, in a 2009 study, EIA assessed the percentage of households using wood by income (Figure 1). Clearly, lower income levels have a lower percentage of wood use overall, but a higher percentage

U.S. Energy Information Administration. Increase in wood as main source of household heating most notable in the Northeast. March 17, 2014. http://www.eia.gov/todayinenergy/detail.cfm?id=15431

of average wood consumption. This may imply that lower income households are more likely to use wood as their primary heat source as compared to higher income households that use wood as a supplemental heat source. As petroleum-based heating fuel prices have risen in recent years, wood has become more prevalent as both a primary and a secondary heating option, and lower income households have taken advantage of wood as their primary heating method. Figure 1 may also imply that lower income residents are using older, inefficient woodstoves that consume more wood fuel. High costs of purchasing new woodstoves may prohibit many from upgrading to newer, more efficient devices; moreover, the costs of installation, operation, and maintenance must be considered in addition to the initial purchase price of the heating device. In a state that is predominately rural, has the lowest per capita income in New England², has some of the oldest housing stock nationally, and is demographically the oldest in the nation3, Maine citizens should have access to affordable, efficient primary heating sources. We consider installation costs and considerations, ease of operation, necessary maintenance, and affordability very important factors. Therefore, we encourage EPA to spearhead energy-savings incentive programs that encourage residents to change out older, less efficient wood stoves for newer, more efficient devices that consume less wood and provide more energy.

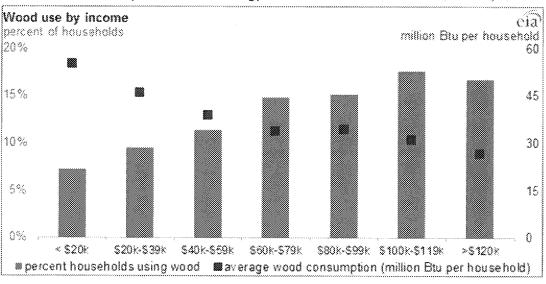


Figure 1. Wood use by income. U.S. Energy Information Administration. March 17, 2014.

Staff at the Department have worked extensively researching, educating, and reaching out to all parties in the state of Maine that may be affected by EPA's proposal and provide the following comments seeking to improve the proposal.

² Bureau of Economic Analysis, U.S. Dept. of Commerce: http://www.bea.gov/regional/bearfacts/statebf.cfm

³ Ranking of States by Projected Percent of Population age 65 and Over: 2000, 2010 and 2030. U.S. Census Bureau: http://www.census.gov/population/www/projections/projectionsagesex.html

We recognize that the industry affected by this regulation is comprised of many small manufacturers who may be without the technology and development resources available to larger manufacturing operations. It is commendable that since promulgation of the 1988 law, these manufacturers have continued, on the whole, to develop and improve their manufacturing processes and products to attain performance levels below the 1988 standards, not because it was mandated, but based on market considerations and judicious business decisions. Maine recognizes the strides taken by this manufacturing sector and thanks them for their efforts and marked progress from which we all benefit.

We agree with the inclusion of currently unregulated units; specifically, the inclusion of single burn-rate stoves, outdoor wood boilers and hydronic heaters, and the wood burning appliances previously exempted from the 1988 NSPS for residential wood burning appliances. We do, however, remain neutral regarding the regulation of masonry heaters in the proposal.

While we strongly support steps to reduce particulate matter and other harmful emissions which can result from burning wood and wood products for heating purposes, Maine DEP is advocating for reasonableness in this regulation such that newer, cleaner wood stoves are a benefit to the consumer – with no compromise to heating ability, no increase in difficulty of operation or on-going maintenance, and which are not prohibitively expensive – so that actual air pollution reductions and health benefits are realized. As appropriate, comments are provided with the specific applicable citation; when applicable to more overarching concepts, they are presented without a specific citation. The Department's comments are organized into the following categories:

- 1. 40 CFR Part 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters
 - a. 40 CFR Part 60, § 60.532
 - b. 40 CFR Part 60, § 60.533
 - c. 40 CFR Part 60, § 60.538
 - d. Other Areas of Comment under 40 CFR Part 60, Subpart AAA
- 40 CFR Part 60, Subpart QQQQ, Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces
- III. 40 CFR Part 60, Subpart RRRR, Standards of Performance for New Residential Masonry Heaters
- IV. Proposed Emissions Standards and Test Methods
 - a. Regulatory Specifics
 - b. Test Method Concerns
 - c. Analytical Method Concerns
 - d. Test Set Up and Operating Method
 - e. Conclusion
- V. Conclusions

1. 40 CFR Part 60, Subpart AAA, Standards of Performance for New Residential Wood Heaters

a. 40 CFR Part 60, § 60.532

What standards and associated requirements must I meet and by when?

(b) 2015 Particulate Matter Standards.

This section of the proposal identifies identical emissions standards (Phase 1 standards) for affected adjustable burn rate wood heater or pellet stoves equipped with catalytic combustors, for affected adjustable burn rate wood heater or pellet stoves not equipped with catalytic combustors, and single burn rate wood heaters.

The grouping together of all three categories of wood burning appliances (catalyst, non-catalyst, and pellet) is not logical, as the different categories are designed to operate differently and control emissions differently. Additionally, such grouping is not consistent with EPA's practice of establishing other NSPS and National Emission Standard for Hazardous Air Pollutants (NESHAP) standards and requirements. NSPS and NESHAP regulations applicable to boilers, for example, differentiate between various fuels and various combustion unit designs. The major HAP source Boiler MACT regulation specifies 21 different subcategories of boilers and process heaters and specifically identifies standards for each. In accordance with EPA's established precedents, we consider it appropriate to evaluate available data to identify the top performers in each of these three residential wood heater categories and identify emissions standards for each.

(c) 2020 Particulate Matter Standards.

This section of the proposal identifies identical emissions standards (Phase 2 standards) for the three categories of residential wood burning appliances identified above for the 2015 standards.

We reiterate the inappropriateness of identical emissions standards for units of different technologies and fuels. Beyond that, however, we consider it inappropriate to promulgate Phase 2 standards at all, considering the imprecision and uncertainty of the test methods and resulting data from which the proposed Phase 2 standards were derived. The fuels, test methods, and testing protocols are all highly variable (The Department provides specifics later in these comments.) and do not provide an adequate foundation upon which to base promulgation of Phase 2 standards.

EPA has promulgated changes to the prescribed compliance test methods, which is essential to obtaining more reliable testing data. However, it is unacceptable to base a proposed standard

^{4 40} CFR §63.7499

on data obtained using one set of test methods, and then require compliance to be based on new test methods that have not yet been vetted and verified for veracity and reliability.

Given the inherent variability in the testing processes, we recommend that EPA promulgate the Phase 1 standards and new and/or revised test methods which include changes to the testing processes which reduce the variability inherent in those processes. The promulgation must include a process by which to verify that test results are not within the noise or background of the variability of the test method. Immediately and including Phase 1 compliance certification testing, the evaluation of performance for each unit should be based on multiple tests (a minimum of three) with compliance based on the average of results. Using this new testing approach, sufficient data should be gathered over the proposed five years of Phase 1 applicability to determine what, if any, emissions standards would be appropriate for Phase 2 standards, including a thorough statistical analysis of the foundational data to justify these conclusions. Any such revisions to the process, such as revised test methods and conducting multiple tests upon which to base certification, would require extensive research, data collection, and analysis in order to decisively conclude what emissions level would represent an appropriate Phase 2 standard within the statistically significant range.

Another key revision to the testing process which has been proposed by the EPA is the use of cord wood as the test fuel instead of crib wood (dimensional lumber). EPA has proposed to require testing during the Phase 1 period using both crib wood and cord wood, but only using cord wood for Phase 2 testing. The proposal contains no plan or method to correlate test results using the two different fuels. Crib wood was required as the test fuel in the original residential wood burners NSPS to decrease testing variances due to fuel variability, because crib wood is a more consistent fuel from test to test than cord wood. Each test must be reproducible from lab to lab to within statistically relevant tolerances, yet tests conducted using cord wood, which varies by species, by region, and even from one load to the next, are inherently not as reproducible. This is yet another aspect of the proposed changes which would require extensive research, data collection, and analysis in order to decisively conclude what emissions level would represent an appropriate Phase 2 standard within the statistically significant range.

We do not support the proposal to require appliances to meet a Phase 2 standard in Burn Category 1 and Burn Category 4, when the standard proposed was derived from an average of performance in Burn Categories 1, 2, 3, and 4. There is no data analysis provided which supports the requirement for a unit's emissions from the lowest burn rate and from the maximum burn rate (not a weighted average) to comply with the average burn rate value of the top 12% for which data has been collected. This is inappropriate and not consistent with the established practice to determine NSPS standards. The average of the four burn categories with

statistically supported upper values for any one burn category would be a much more appropriate and justifiable proposal, assuming that the issue of variability in the test method and corresponding lack of precision in the results could be resolved.

(e) Pellet Fuel Requirements.

1. Certification Requirements

Quality standards in the manufacturing and labeling of wood pellets are appropriate. However, we object to the portion of the proposed regulation, as stated on page 6341 of the Federal Register, that "pellets for the certification tests be only those that have been produced under a licensing agreement with the Pellet Fuels Institute, or equivalent..." We do not believe the Pellet Fuels Institute (PFI) certification program should be the only certification option proposed by EPA (with the only other "or equivalent" option left as uncertain and undefined as currently written). To date, the pellet industry has been self-regulating and maintaining high quality standards in response to market demand. We consider that this should be recognized and encouraged, while not legislating control from a non-governmental certifying body made up of potential business competitors.

The Maine DEP has discussed this proposal with pellet manufacturers in Maine and heard that the facilities are not opposed to a fuel pellet specification but want flexibility in how compliance should be met.

We recommend that EPA set the standards and quality compliance expectations, but allow pellet manufacturers flexibility in how to comply. This may include identification of the requirements of a quality management program, citing PFI's program as an example (dated, in case the program is modified in future by PFI and ends up not being what EPA had intended in this rulemaking), but allow each manufacturer the option to develop their own quality assurance program; and EPA should require semi-annual, third-party certification (such as fuel pellets being tested by a reputable laboratory).

We suggest the following language changes in the proposed regulation:

- (e) Pellet Fuel Requirements. Operators of Fuels fired in wood heaters that are certified to burn pellet fuels may only burn pellets that have been produced under a licensing agreement with the Pellet Fuels Institute or an equivalent organization approved by the EPA. The pellet fuel must meet the following minimum requirements:
 - (1) Density: consistent hardness and energy content with a minimum density of 38 pounds/cubic foot;
 - (2) Dimensions: maximum length of 1.5 inches and diameter between 0.230 and 0.285 inches;

- (3) Inorganic fines: less than or equal to 1 percent;
- (4) Chlorides: less than or equal to 300 parts per million by weight;
- (5) Ash content: no more than 2 percent; and
- (6) A quality assurance process licensed by similar to the Pellet Fuels Institute's program dated June 1, 2011, or equivalent organization's process; documented and maintained on site and available upon request by the Administrator.

2. Multiple Testing Using a Wide Range of Pellet Grades

The regulation as proposed specifies that once certified, the owners/operators of pellet burning appliances would only be allowed to burn in their appliance the grade of fuel that the appliance manufacturer chose for the appliance certification test and as the manufacturer specifies in the owner's manual. Page 135 of 354 of the proposal states, "Heater manufacturers have indicated to us that market competition will compel them to specify the widest range of grades for which their heaters will properly perform."

This would logically lead to the conclusion that manufacturers of pellet burning appliances will need to test their appliances several times using a wide range of pellet grades. Was this multiple-testing cost factored into the economic analysis?

We proposed the following language change to remedy this potential additional economic burden:

"Once certified, pellet burning appliances would only be allowed to burn the grade of fuel that the appliance manufacturer chose for the appliance certification test or higher grade fuels and the grades of fuel the manufacturer specifies in their owner's manual for the operator to use."

(f) Prohibited Fuel Types.

We agree with the identification of prohibited fuels in the regulation, as found in §60.532 (f) Prohibited Fuel Types.

(g) Owner's Manual. A person must not operate an affected residential wood heater in a manner inconsistent with the owner's manual. The owner's manual must clearly specify that operation in a manner inconsistent with the owner's manual would violate the warranty.

We disagree with the inclusion of such a requirement. This is not enforceable, nor is it appropriate for a NSPS regulation to interfere with the private contract between the owner and the manufacturer.

(h) Temperature Sensor Requirement. An affected wood heater equipped with a catalytic combustor must be equipped with a temperature sensor that can monitor combustor gas

stream temperatures within or immediately downstream [within 2.54 centimeters (1 inch)] of the catalytic combustor surface.

This is an inappropriate requirement and should be removed. There is no identified purpose for inclusion of such instrumentation, by whom it would be monitored, what temperature might be appropriate and why, and where the temperature information would be used. There is no point in adding costs when there is no realistic expectation of environmental or health benefit.

b. 40 CFR Part 60, § 60.533

What compliance and certification requirements must I meet and by when?

- (b) Application for Certificate of Compliance. [The application must include...]
 - (6) A copy of the warranties of the model line, including a statement that the warranties are void if the unit is used to burn materials for which the unit is not certified by the EPA.

This does not appear to be enforceable, nor is it appropriate for a NSPS regulation to interfere with a private contract between the owner and the manufacturer.

(m) Quality Assurance Program.

(1) (iii) Within 30 days after approval by the certifying entity, the quality control plan must also be submitted to EPA for review and approval.

In order to provide the manufacturer with a timely response addressing the quality control plan requiring EPA approval, we recommend the following language be added to this section of the regulation:

EPA shall respond within 30 days of submittal of the quality control plan, either that the plan is approved or that the plan is not approved. If a plan is not approved, EPA shall include the reasons for not approving the plan as part of the response. The manufacturer shall have 30 days from the date of receipt of non-approval notification to submit a new version of the quality control plan incorporating corrections for each deficiency as identified by EPA.

(n) EPA Compliance Audit Testing.

- (2) (iii) The test must be conducted using the same test method and procedure used to obtain certification or a new test method approved by the EPA Administrator.
- (4) Revocation of Certification.
 - (i) If emissions from a wood heater tested under paragraph (n)(2) of this section exceed the certification emission values limit by more than 50 percent, the Administrator will notify the manufacturer that certification for that model line is suspended effective 72 hours from the receipt of the notice, unless the suspension notice is withdrawn by the

Administrator. The suspension will remain in effect until withdrawn by the Administrator, or 30 days from its effective date (if a revocation notice under paragraph (n)(5)(ii) of this section is not issued within that period), or the date of final agency action on revocation, whichever occurs earlier.

(ii)(A) If emissions from a wood heater tested under paragraph (n)(2) of this section exceed the applicable emission limit, the Administrator will notify the manufacturer that certification is revoked for that model line.

Subpart (iii) of § 60.533 (n)(2): It is inappropriate for the EPA Administrator to require — or allow — a "new test method" to be used for audit testing. This would risk introduction of infidelity in the testing methods and resulting test data. The purpose of an audit program is to apply the testing procedure to a sample (selected unit to test) within a population (all manufactured units of the same design and certification as the sample tested) to assure no material exceptions are included in a sampled population. Ideal outcomes from an audit are test results that corroborate the results of the certification test. Allowing such an audit test to be conducted using a "new test method" or any method other than that used in initial certification of that product line introduces variability and uncertainty in the usefulness and applicability of the audit results. If introduction of new test methods is necessary, it would be much more appropriately scheduled for testing conducted to renew certification for a particular model line.

Subpart (i) of § 60.533 (n)(4) identifies that if emissions from a wood heater tested according to the applicable paragraph "exceed the certification emission values limit by more than 50 percent," the Administrator will notify the manufacturer of the suspension of the certification for that model line, effective 72 hours from receipt of notice.

Subpart (ii)(A) of § 60.533 (n)(4) identifies that if emissions from a wood heater tested according to the same applicable paragraph "exceed the applicable emission limit," the Administrator will notify the manufacturer of the revocation of certification for that model line.

These two subparts seem either redundant or contradictory to one another. There is no definition provided for "certification emission values limit" from subpart (i), but logic dictates that it could be interpreted to mean one of two things: 1) the applicable emission limit to which the unit is subject, which would make the subpart (ii)(A) redundant; or 2) the emission value identified from the testing done to obtain certification, which allows the possibility of suspension of certification of a unit which actually tests below the applicable emission limit. Hypothetically, a unit whose certification was obtained from testing at 2.0 g/hr could retest at 3.1 g/hr, which would still be under the current limit of 4.5 g/hr. If so, why would it appropriate to suspend certification for that model line? Additionally, the test methods are not sufficiently

accurate at this time to be able to effectively differentiate an emission rate level of 50% under 4.5 grams per hour, which makes this requirement scientifically suspect. Therefore, we question why the subpart (i) cited above is necessary.

The language contained in Subparts (i) and (ii)(A) of § 60.533 (n)(4) should be revised to clearly convey the intent of this part of the regulation.

c. 40 CFR Part 60, § 60.538

What activities are prohibited under this subpart?

(a) No person is permitted to operate an affected wood heater that does not have affixed to it a permanent label pursuant to § 60.536 (b), (c), or (d)(2) through (d)(5).

This particular requirement appears to be unenforceable. One can relate this requirement to that of tags on newly purchased bed mattresses. This similar requirement has only weakened the regulation as it includes requirements that have no reasonable expectation of enforceability. We advocate for inclusion of such activities as "recommended activities" for the owners and operators of residential wood burning appliances.

- (c)(1) No commercial owner is permitted to advertise for sale, offer for sale or sell an affected wood heater permanently labeled under § 60.536 (b) or (c) unless:
 - (ii) The commercial owner provides any purchaser or transferee with an owner's manual that meets the requirements of § 60.536(f), a copy of the warranty and a moisture meter.

We disagree with the proposal to require direct distribution manufacturers and retailers to provide a moisture meter with the wood heaters at the time of sale, because it is an unnecessary and likely ineffective add-on cost to the sale. There is no way to practically enforce the accurate use of a moisture meter or adherence to recommendations based on what the moisture meter indicates. We advocate for inclusion of such activities as the use of a moisture meter as "recommended activities" for the owners and operators of residential wood burning appliances.

- (e) No person is permitted to install or operate an affected wood heater except in a manner consistent with the instructions on its permanent label and in the owner's manual pursuant to § 60.536(f).
- (f) No person is permitted to operate an affected wood heater that was originally equipped with a catalytic combustor if the catalytic element is deactivated or removed.
- (g) No person is permitted to operate an affected wood heater that has been physically altered to exceed the tolerance limits of its certificate of compliance.

(h) No person is permitted to alter, deface, or remove any permanent label required to be affixed pursuant to § 60.536.

The above subparts (e), (f), (g), and (h) of § 60.538 all appear to be unenforceable. It only weakens a regulation to include requirements with no reasonable expectation of enforceability. We advocate for inclusion of such activities as "recommended activities" for the owners and operators of residential wood burning appliances.

d. Other Areas of Comment under Subpart AAA

 (page 12 of 354) This portion of the proposal explains that new pellet heater/stove owners and operators would be required to use only the grade of licensed pellet fuels that are included in the heater/stove certification test, or better.

Due to the lack of enforceability, we are opposed to this requirement for owners and operators. It would be more appropriately included in the owner's manual as a statement of the grade of pellets used in compliance testing and that the manufacturer recommends the use of the same or higher grade of pellets in the appliance for optimum performance.

2. (page 41 of 354) EPA is proposing to require manufacturers to provide warranties on the catalysts and prohibit the operation of catalytic heaters/stoves without a catalyst.

The manufacturers are not a regulating body; thus, this method to legislate that manufacturers prohibit certain actions by their customer is a misuse of the relationship between manufacturers and their customers. If there were to be consequences of operating an appliance contrary to the owner's manual, those consequences should be per EPA or the delegated authority, not the manufacturer.

(page 47 of 354) EPA asks for comments on whether or not to include, in addition to pellet fuel
quality assurance requirements, other requirements of best burn practices or adjustments to
help insure proper operation, e.g., chimney height and draft specifications, moisture content of
wood, and limits on visible emissions.

We are opposed to the inclusion of best burn practices or adjustments to help insure proper operation, e.g., chimney height and draft specifications, moisture content of wood, and limits on visible emissions. These requirements would be difficult to enforce, and would require a dramatic increase in compliance resources to support such a requirement. Such information would be appropriately included in support information supplied at the time of purchase, but their inclusion in the proposed NSPS is not appropriate.

4. (page 90 of 354) EPA states the following: "We have not determined the potential for consumers to choose other types of fuels and their associated appliances if the consumer costs of wood-fueled appliances increase and at what level that increase would drive consumer choice. Similarly, we have not determined the degree to which better information on the energy of the NSPS appliances will encourage consumers to choose new wood-fueled appliances over other new appliances."

Since costs are a significant part of the justification for this proposal, both health costs savings and increases in manufacturing and selling process of the units, why have these very important factors not been determined and quantified? We are opposed to such an economic experiment, and request that EPA to investigate these areas to better inform how this regulation may affect both affected manufacturers and affected owners/operators.

(page 134 of 354) EPA requests specific comments on the need for and level of a possible CO
emissions standard and whether CO monitors should be required to help ensure proper
operation of the heater and to reduce health and safety concerns for appliances that are
installed in occupied areas.

We agree with EPA's conclusion to not require CO testing and reporting, since, according to EPA, the "current data for CO emissions performance and methods of control are not sufficiently robust to support strong CO emission limits..." and that it can be expected that CO emissions will be reduced as a result of the control of PM, because meeting PM standards will be achieved primarily by BSER based on good combustion for those units not utilizing catalysts. We do consider requirement of CO monitors for appliances that are installed in occupied areas to be neither appropriate nor enforceable. In addition, such a requirement is outside of the jurisdiction of NSPS authorization and would be a misuse of the NSPS regulating avenue to mandate such for private residences.

- 6. (page 137 of 354) Here, EPA states, "Some advocates have suggested that we only allow use of wood certified to a certain moisture level..." We are opposed to this suggestion. Such a requirement could potentially spill over into regulation of every entity in the United States which sells firewood, and we consider this neither the intent nor within the scope of the NSPS program.
- 7. (page 139 of 354) Six-Month Sell-Through Provision Wood stove sales are seasonal, and depending on what part of the year in which the six-month period occurs, dealers may likely not be able to sell out the old stock. This could be financially overwhelming for dealers to absorb the cost of leftover, unsold units. We advocate for extending the six-month sell-through provision to one full year for the dealers, and include the six-month provision applicable to manufacturers only.

8. Testing, General Concern

What would be the woodstove manufacturer's incentive to conduct costly testing on a wide variety of fuels (such as bio-bricks), unless there was a business arrangement – driven by this regulation – between the stove manufacturer and the fuel manufacturer? This regulation as proposed could effectively close out of the market such smaller, innovative-yet-no-more-environmentally-detrimental manufacturers of bio-bricks and other hybrid fuels. We consider this to be an unintended, negative consequence of promulgation as proposed, and support manufacturer-identified appropriate fuels as recommended and not mandated.

9. Catalyst-Equipped vs. Non-Catalyst-Equipped Wood Burning Appliances

A. Installation Differences

According to the network of residential wood heating appliance dealers, installers, and stove and chimney maintenance professionals whom we surveyed, catalyst stoves require more draft than non-catalyst stoves, to overcome the resistance caused by the additional filter (the catalyst) in the exhaust path; thus, a catalyst stove is more draft-sensitive. This could require a homeowner to add onto their chimney to create proper draft for the stove to operate properly. As required by regulation, the owner's manual for a unit must specify the appropriate installation parameters for the stove, including chimney and draft requirements which differ for different wood stove technologies. If a home owner installs a catalyst-equipped wood stove to replace a non-catalyst stove without making adjustments to the chimney, the owner will be violating a federal regulation because of improper installation of a catalyst-equipped wood stove. Manufacturers will have covered themselves legally for these instances, but owners would not. This suggests that an additional requirement must be included for all stoves to be installed by certified installers; this is an additional cost that is not considered in the proposed regulation.

Hybrid models (consisting of a combination of catalyst and non-catalyst emissions reduction technologies) currently available come with many stove pipe and chimney parameter requirements (chimney height and draft specifications, thimble height from the base of the stove, etc.), with ranges identified within which optimum operation occurs. Given the unique combination of parameter requirements and the multitude of homes with unique design characteristics, installation in an existing home is likely to compromise some installation parameters, keeping a unit from optimal operation. As stated by one chimney sweep we interviewed, "Hybrids can be a serviceman's nightmare."

B. Cost Differences

According to EPA table summarizing unit cost impacts (in 2010 \$) of the proposal, certified wood heaters have a baseline unit cost of \$859. This does not acknowledge the cost differences between catalyst stoves vs. non-catalyst stoves that were reported to us when

we asked several dealers throughout the State of Maine. Replacement catalysts costs, based on an informal survey of Maine woodstove dealers, are between \$350 and \$500 for the catalyst alone, and an additional \$150 to \$200 for the service call. Thus, catalyst replacement cost in aggregate is between \$500 (best case) and \$700 (worst case) at today's prices. This significant added expense for catalyst-equipped stove owners, which will be required several times during the life of the woodstove, provides a substantial economic deterrent to those in the market for a new wood burning, home heating appliance. In fact, many dealers actively discourage customers from catalyst-equipped stoves because of the additional operational requirements and these added costs.

Once a catalyst wears out such that the catalyst is spent and ready for replacement, the stove not only becomes much less efficient as a heat source but also releases much higher levels of pollutants to the atmosphere. At such time, it is quite common for homeowners to bypass the catalyst and continue heating their homes.

C. Operational Differences

According to many residential wood heating appliance owners and operators, as well as dealers, installers, and stove and chimney maintenance professionals whom we surveyed, a major hurdle to overcome for wood burning appliances meeting very low standards – such as catalyst-equipped stoves – is that they only run for such a short period of time (the duration of the burn once the unit is fueled and closed) compared to the older stoves. This is because they (the manufacturer) "plug the firebox with excess air in order to meet the standard." New, compliant designs won't maintain a fire overnight (when operated according to manufacturer's specifications), which means that owners will be less likely to follow the manufacturer's specifications, but will do what they need to do to maintain heat in their homes overnight. In short, these stoves will demonstrate very low emission levels in the lab, but they don't reach those levels in real life. Actual use of catalyst stoves can result in pollution levels greater than EPA-certified non-catalyst stoves because of improper use of the unit (not waiting until flue gases are up to temperature before engaging the catalyst, bypassing the catalyst, not properly maintaining and replacing the catalyst as necessary, etc.).

One owner of two catalyst-equipped stoves shared the following experience: When a catalyst stove is closed most of the way for overnight operation, there's not enough air flow for the exhaust to push through the catalyst, so pressure builds up, resulting in the stove emitting smoke puffs into the room ever ten minutes or so. The homeowner stated, "I've owned two catalyst stoves, and I'll never do that again!"

Stoves equipped with catalysts are perceived by the general populous as cleaner burning than non-catalyst stoves. As a result, people tend to think their stoves and chimneys don't have to be serviced as often, a trend confirmed in our discussions with those in the businesses of wood stove installation and maintenance and chimney sweeping. Not only is this detrimental to the businesses mentioned, but it increases safety risks unnecessarily.

D. Need to Lower Barriers to Replacement Units

Throughout our extensive investigation and research process, the following has been expressed repeatedly by representatives from every sector affected by this proposal: The best way to get the most immediate air quality improvements and reductions in air emissions from residential wood burning is to institute swap-out programs to remove older, dirtier stoves and replace them with newer, cleaner stoves. If new regulations cause stoves to be prohibitively expensive or more likely to be operated improperly (by not replacing a catalyst when it's time, bypassing the catalyst, etc.), or if the new, mandated stove is not as effective a heating source (having to burn more wood to get the same heating value or not being able to keep a fire going overnight), the expected air quality and health benefits will not be realized. A nationwide, older-stove-for-newer-stove replacement program would be the "low-hanging fruit", more easily achievable, in reducing PM emissions from residential wood burning. The more barriers that can be removed from the path of older stove retirement and replacement with newer, cleaner stoves, the greater air quality and related health improvements we can realize, and sooner.

II. 40 CFR Part 60, Subpart QQQQ, Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces

The Department supports EPA in the inclusion of new residential hydronic heaters and forced-air furnaces in the NSPS proposal. Since 2008, the State of Maine has regulated outdoor hydronic heaters and recognizes that these units potentially pose an air quality problem if not properly operated. The Department concurs that further emission limit reductions are appropriate at this time, and the addition of forced hot air wood-fired furnaces is also supported.

The Department disagrees with the suggested limitation of hydronic heaters to a defined "heating season," as such units are often used to provide domestic hot water year-round. It is appropriate to identify emissions standards, but it is not appropriate to limit which part of the year the home owner is allowed to use the appliance. It is not within the authority of the NSPS to regulate constraints on when a homeowner heats their home.

Although the Department supports a sell through provision for indoor furnaces, six months is not a reasonable amount of time for this. Wood burning heating appliance sales are seasonal, and

depending on what part of the year in which the six months fall, they may likely not be able to sell out the old stock in time. This would cause significant impact to the dealerships in Maine. In the proposal there is no sell-through provision in Phase 1 for hydronic heaters. The Department believes it is appropriate to include a timeframe for manufacturers to recoup costs on units already manufactured. We advocate for extending the six-month sell-through provision to one full year for the dealers, and include the six-month provision applicable to manufacturers only.

p. 143 of 354: "Manufacturers of hydronic heaters and forced-air furnaces have known for several years that we were drafting this proposal" [pertaining to not providing an allowance transition period for research and development (R&D) to develop new models].

The Department believes that not knowing what the final regulation would look like and contain, it is short-sighted and unfair of the regulator to make such a statement. The manufacturers can surely conduct R&D, but without knowing the target or goal, it is not the most financially responsible expense.

III. 40 CFR Part 60, Subpart RRRR, Standards of Performance for New Residential Masonry Heaters

The Department is neither for nor against the inclusion of masonry heaters in the proposed NSPS update. If EPA moves forward with emission limits for these units, the Department does not support the testing of individual models for compliance. The very nature of residential masonry heaters is that each one is built on-site at a residence, each with its own characteristics and unique features. Also, each masonry heater can be constructed out of various materials, depending on the purchaser's preferences and structural limitations of the site. The suggestion of individual testing of each masonry heater is unacceptable based on the huge expense of such a test and the inappropriateness of conducting such testing at private residences. The Department would recommend that EPA strongly consider approving models based on a computer simulated design.

Masonry heater manufacturers we have consulted expressed that if there is a standard, it would be more appropriate in the units of pounds of pollutant per kilogram of fuel fired, which would take into account the efficiency of the unit and the unique burn profile of a masonry heater. Given the small population of masonry heaters in the United States and the considerable efficiency of such units, we consider that regulation of this source category might be more appropriately handled at the local level, either by states or communities.

IV. Proposed Emissions Standards and Test Methods for Residential Wood Heaters

Maine's DEP has researched the EPA-proposed emissions standards for residential wood burning units and the data upon which the proposed standards are based. Our review of the data, the test methods, and the proposed emissions standards has revealed several areas of concern. We

consider that the EPA did not follow the precedents set by the EPA itself in establishing numerical standards for other NSPS and NESHAP (MACT) standards. This aberration from the established procedures does not seem to yield defensible conclusions upon which to base the emission standards as proposed.

a. Regulatory Specifics

The Clean Air Act, reflecting the Clean Air Act Amendments of 1990 (CAAA), specifies the method to identify maximum achievable control technology (MACT) emissions standards under the Air Toxics section (National Emissions Standards for Hazardous Air Pollutants, or NESHAP) as the average emission limitation achieved by the best-performing 12% of existing sources (excluding Lowest Achievable Emission Rate sources); or for categories or subcategories with less than 30 sources, the average emission limitation achieved by the best-performing five sources. The language of Section 111 of the CAA concerning NSPS does not as specifically identify the method to establish numerical standards. However, the EPA has used the MACT method in both NESHAP and NSPS rulemaking since promulgation of the 1990 CAAA (see Cement Kiln NSPS, Major Source Boiler MACT (Boiler MACT), and Commercial and Industrial Solid Waste Incineration (CISWI) regulation preambles and responses to public comments).

b. Test Method Concerns

Understanding of the precision of any test method is extremely important in understanding the limitations of the data generated from the method; and conclusions reached without consideration of these limitations are likely to be misleading and flawed. One element of test method precision is associated with method detection capabilities, and a second is a function of the measurement value. Measurement imprecision is proportionally highest for values measured below or near a particular test method's detection level and proportionally decreases as values increase above the method detection level. As explained in the responses to comments from the CISWI regulation and as reiterated in the responses to comments from the Boiler MACT regulation [FR, Vol. 76, No. 54 / Monday, March 21, 2011 / Rules and Regulations, Major Source Public Comments and Responses, page 15624 and others], EPA should apply the same procedures to the Residential Wood Burning Device NSPS to account for the effects of measurement imprecision associated with a database, including method detection level (MDL) data. ⁶

⁵ Federal Register, Vol. 76, No. 54 / Monday, March 21, 2011 / Rules and Regulations, Major Source Public Comments and Responses, page 15624; and others

The method detection limit (MDL) is defined as the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte (the substance being tested for; in this case, PM) concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte. [40 CFR, Appendix 8 to Part 136]

As expressly stated by EPA, the first step is to define an MDL that is representative of the data used in establishing an emissions limit. For CISWI and Boiler MACT, available data was analyzed to identify the highest test-specific MDL. For the Residential Wood Burner NSPS, no such analysis is provided or alluded to. Again, as stated by EPA, the second step in the process is to calculate three times the representative MDL and compare that value to the calculated emissions limit. If three times the MDL is less than the calculated emissions limit, EPA would conclude that measurement variability had been adequately addressed. However, if three times the MDL is greater than the calculated emissions limit, EPA would conclude that the calculated emissions limit did not account for the measurement variability. If this was the case, EPA used the value equal to three times the MDL as the promulgated emissions limit. This procedure ensures measurement variability is adequately addressed in the promulgated emissions limit.

A paper entitled <u>EPA Wood Heater Test Method Variability Study</u>, October 6, 2010 (by Curkeet and Ferguson; incorporated herein by reference; see Appendix A) puts forth the following:

No rigorous assessment of the precision of the test methods contained in the woodstove NSPS [40 CFR Part 60, Subpart AAA, originally promulgated in 1988 and amended in 1996] and required to be used to certify model lines under that NSPS has ever been performed, despite the fact that the NSPS was promulgated over 25 years ago, more than 700 woodstoves have been tested and certified under it, and a large data base of proficiency test data from accredited laboratories has been assembled.

Please note that there has been no study or statement we are aware of that has refuted this assertion. The paper then proceeds to document the performance of that assessment, using the EPA proficiency test data base and broadly accepted tools for assessing repeatability and reproducibility. Maine DEP staff have not only reviewed this report, but have also conducted independent, in-house assessment of the EPA's proficiency test data base. The remainder of this section describes Maine's findings and concerns:

Maine DEP's conclusions to date support the position that the testing and emissions sampling and quantification methodologies as required by the federal regulation *Standards of Performance for New Residential Wood Heaters*, 40 CFR Part 60, Subpart AAA, are not capable of yielding reproducible results at the limits being advocated in the recently proposed update to 40 CFR Part 60, Subpart AAA, and proposed NSPS Subparts QQQQ and RRRR. Of concern are the lack of reliability and precision (repeatability, reproducibility) of data resulting from the following two sets of procedures required to demonstrate compliance with emission standards for residential wood stoyes:

- 1) Procedures for fueling and operation for emissions testing, including set-up, test fuel properties, test fuel load configuration, loading and start-up time periods, allowable air and fuel adjustments, stove specifications, etc., as provided by Method 28; and
- 2) The sets of procedures used to sample and quantify emissions as specified in the analytical Methods 5, 5G, 5H, and their equivalents.

c. Analytical Methods

The second set of procedures, the analytical Methods (Method 5 series and their equivalents), have greater conformity than Method 28 to the EPA Precision, Accuracy, Reproducibility, Comparability, and Completeness (PARCC) guidelines. These analytical Methods are well defined with clear procedures; however, it appears they are being used to determine emission concentrations at levels below what they are capable of reliably reporting based on the available Quality Assurance/Quality Control (QA/QC) data. Since its original promulgation, Method 5 has undergone revisions in protocols to improve measurement variability and provide greater precision of reported results. Available data indicates that under ideal conditions, the analytical Methods are capable of a method detection limit (MDL) approaching 1 gram/hour. Accepted good laboratory practice (GLP) protocols for EPA analytical methods use a five- to tenfold buffer to achieve a practical quantitation limit (PQL), the lowest concentration of an analyte (the substance being tested for; in this case, PM) that can be quantified with a suitable statistical degree of confidence. Any value less than the PQL is inappropriate for use to measure compliance with a numerical standard, as its accuracy is considered "estimated", and is only appropriately used for informational purposes. For example, the value may be used to indicate the presence of a substance in conjunction with a complete data set to define the edge parameters.

If a data set exists demonstrating that the analytical Methods can reproducibly generate MDL data at the 0.1 gram/hour emission rate, then the 1 gram/hour value (ten times the MDL value) may be valid. Likewise, if there is round robin data with some type of blind performance data, it would be much easier to evaluate the methods' capabilities and limitations.

Based on the data collected through the EPA required Accredited Laboratory Proficiency Test Program, it appears that the analytical Methods currently in place are neither reliable nor valid below 5 grams/hour at best, and more realistically not valid below 10 grams/hour. In this regard, the Department concurs with the findings documented in the Curkeet and Ferguson paper and comments on the proposed Boiler MACT rule as provided by Mary Sullivan Douglas of NACAA.⁷

⁷ Comments submitted on behalf of National Association of Clean Air Agencies (NACAA) on the proposed 40 CFR Part 63, Subpart DDDDD; Document Control Number EPA-HQ-OAR-2002-0058-3525-A1, Comment Excerpt Number 11. (See Appendix 8)

d. Test Set-Up and Operation Method

Unfortunately, the analytical test methods have much greater definition and reproducibility compared to test Method 28. Method 28 makes a fair attempt to minimize the variables associated with the wood burn test, but the protocols defined in Method 28 do not match real world conditions. Addressing the uncertainty of all of the test method components, evaluation of the propagation of errors associated with the method as presented by Mr. Curkeet consistently shows variably with the coefficient of variation (CV) in excess of 40%. Given that random probability results are those with a CV > 50%, Method 28 gives results that, under ideal and carefully controlled conditions, are not far from random probability results. A more random approach to materials, moisture content, operators, and stoves would generate more realistic variability and have a better relationship to real world conditions. Based on some of the manufacturer supplied data, it does appear that the method can see down to a magnitude of single digit gram/hour outcomes. Experience with this process and the incentive for best case results would again indicate an order of magnitude value would be more in line with actual field tests, i.e., greater than 10 grams/hour.

e. Conclusion

The document *EPA Guidance for Quality Assurance Project Plans, EPA QA/G-5* (EPA/600/R-98/018, February 1998) contains EPA guidelines identifying a detailed process for evaluating both design protocols and data assessment, to be used for all data that may affect regulatory decisions and oversight, and are designed to hold up in court. Appendix H of the document, in particular, defines and addresses data precision, accuracy, representativeness, completeness, and comparability (PARCC) and the implications of each. These are long-established guidelines with references to all aspects of data, including such data as has been collected concerning wood stoves emissions. We believe that rules to be promulgated should also be able to stand up to this rigorous review and that EPA should follow their own QA/QC protocols for understanding the usability of the available data. Application of these protocols would have identified some bounds on how useful the available data is and the limitations of such as the basis of tighter emissions standards.

On pages 146-147 of the proposal, EPA identifies "a key element of the current 1988 NSPS laboratory audit program is the 'round robin' test program"; acknowledges that "we [EPA] have not given this program as much attention as was envisioned in 1988"; proposes greater and more specific adherence to the program; and states "We think these requirements and reminders, combined with the proposed changes in test methods...will help improve interlaboratory repeatability and reproducibility." It is encouraging that EPA acknowledges that improvement of inter-laboratory repeatability and reproducibility are needed. However,

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unquantified gains such as "will help improve" do not provide a sufficient platform from which to promulgate specific numerical emissions standards.

Reduction of air polluting emissions from residential wood burning is an admirable and needed goal; unfortunately, the testing protocols for fuel burning or associated emissions collection and evaluation methods are not capable of reliably reporting values below this magnitude. If errors from both methods are combined, it is arguable that the lowest possible value which could be statistically significant is one no smaller than 30 grams/hour. This is not conducive to reducing emissions, responsibly operating home heating appliances, or reliably demonstrating compliance with either the existing or the proposed emissions standards for residential wood heaters. The test methods must be defined, refined, and improved such that they generate statistically credible results upon which standards and compliance can then be established. Therefore, the state of Maine strongly encourages EPA to refine its compliance test methods to provide future regulatory certainty prior to promulgating standards below the 4.5 gram per hour level.

V. Conclusion

Maine appreciates EPA for moving forward with the proposal and including additional, appropriate categories of wood-fired residential heaters under the NSPS regulatory umbrella. It is our intent that these comments be helpful toward improvements to a more practical and more effective regulation. We support the Phase 1 standards including differentiations between different design technologies; however, until EPA refines its certification test methods to address or account for the associated uncertainties and variables, gathers sufficient data, and puts the data through rigorous analysis and scrutiny, it is inappropriate to promulgate Phase 2 standards that cannot be scientifically justified. Maine supports emission reductions and standards based on sound, scientifically proven certification testing methods for residential wood burning units.

I welcome any questions or comments you may have regarding the Department's submittal.

Sincerely,

Patricia W. Aho, Commissioner

Maine Department of Environmental Protection

CC: Marc Cone, Maine DEP, Bureau of Air Quality

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Appendix of Attachments

Appendix A:

EPA Wood Heater Test Method Variability Study, Analysis of Uncertainty, Repeatability and Reproducibility based on the EPA Accredited Laboratory Proficiency Test Database, by Rick Curkeet, PE, and Robert Ferguson. October 6, 2010.

Appendix B:

Comments submitted on behalf of National Association of Clean Air Agencies (NACAA) on the proposed 40 CFR Part 63, Subpart DDDDD; Document Control Number EPA-HQ-OAR-2002-0058-3525-A1, Comment Excerpt Number 11.

EPA Wood Heater Test Method Variability Study

Analysis of Uncertainty, Repeatability and Reproducibility based on the EPA Accredited Laboratory Proficiency Test Database

Rick Curkeet, PE Chief Engineer – Hearth Products Intertek Testing Services

Robert Ferguson Ferguson, Andors & Company

October 6, 2010

I. Introduction

The precision of any test method is an extremely important tool in understanding the limitations of the data generated from the method. No rigorous assessment of the precision of the test methods contained in the woodstove NSPS and required to be used to certify model lines under that NSPS has ever been performed, despite the fact that the NSPS was promulgated over 20 years ago, more than 700 woodstoves have been tested and certified under it, and a large data base of proficiency test data from accredited laboratories has been assembled. The objective of this paper is to perform that assessment, using the EPA proficiency test data base and broadly accepted tools for assessing repeatability and reproducibility.

The paper consists of four major sections. Section I is this introduction. Section II provides back ground information that will help frame the issues associated with test method precision. Section III is the assessment of test method precision and is comprised of several sub-sections that address the EPA proficiency test data, and analyze some of the sources of variability. The last section (IV) provides conclusions about variability that are supported by the preceding in-depth analyses.

II. Regulatory Background.

The NSPS was proposed on February 18, 1987 (52 Fed. Reg. 4994) and promulgated on February 26, 1988 (53 Fed. Reg. 5860). It is codified at 40 CFR Part 60, Subpart AAA – *Standards of Performance for New Residential Wood Heaters*. The regulation includes the following EPA test methods:

- **EPA Method 28** This method prescribes the fueling and operation procedures for emission testing. Among other parameters, it specifies the test fuel properties, test fuel load configuration, pre-test operating conditions, charcoal bed weight at the start of the test run, loading and start-up time, allowable air supply adjustments, fuel adjustments, end of test run determination and allowable heater body temperature differential from start to end of test, and other parameters needed to conduct a wood heater emission test.
- **EPA Method 5H** This particulate measurement procedure uses an EPA modified Method 5 sampling train which draws a flue gas sample from the wood heater stack and collects particulate in the sampling probe, on a heated 110 mm filter and in a series of ice water chilled impingers. The sampling rate for the sampling train is to be maintained at a constant proportion of the stack gas flow rate and includes a measurement protocol for determining the stack flow at equal time increments. The particulate mass collected in the probe, on the filters, and in the impingers is determined gravimetrically after the removal of uncombined water.
- **EPA Method 5G-1** This method and all of the "5G" methods use a dilution tunnel which collects all the effluent from the appliance chimney and draws it, with ambient dilution air, through a straight duct at a uniform velocity. The velocity is high enough to allow accurate flow rate measurement using a Standard or S-Type pitot tube. Method 5G-1 uses a sample train similar to the Method 5 train but

uses two 110 mm filters in series that are unheated and does not involve recovery of material past the second filter. The particulate mass collected in the probe and on the filters is determined gravimetrically after the removal of uncombined water

- **EPA Method 5G-2** This method utilizes the Method 5H sampling train but the sample is taken from the dilution tunnel (as described in Method 5G-1 above) rather than the wood heater stack. Sample recovery is the same as Method 5H.
- **EPA Method 5G-3** This method used two 47 mm filters in series and is otherwise similar to Method 5G-1. However the method requires that two identical sample trains be used simultaneously and that the results from each agree within 7.5% of the mean for the result to be valid.

At the time the NSPS was promulgated, there had been no rigorous assessment of the precision of the wood heater test methods. In the preamble accompanying the proposal, EPA had this to say about the inter-laboratory and intra-laboratory precision of Oregon Method 7, which became EPA Method 5H in the regulation:

[T]he apparent heater-to-heater differences in the data base reflect not only true differences in performance, but also reflect test method precision. Although data are limited, data obtained by Oregon DEQ suggest that the interlab ... (sic) four-run weighted average precision at the level of the standards is not greater than \pm 1 g/hr.

In contrast, the database upon which the standards are based does not include individual wood heaters tested at more than one laboratory. Therefore, it was agreed that overall and inter-laboratory component of precision should be determined before enforcement tests are performed at laboratories other than the laboratory that initially certified the wood heater. Further, it was agreed that if the overall four-run weighted average precision exceeds ± 1 g/hr, then the interlab component of the precision would be added to the standard when . . . [enforcement] tests are conducted at other than the original certifying laboratory.

The EPA will, by July 1, 1990, either publish in the Federal Register a determination that the inter-laboratory precision cannot be determined, or promulgate revisions reflecting what that precision has been found to be. 52 Fed. Reg. 5010-5011 (February 18, 1987).

As noted above, however, no determination of either intra-lab or inter-lab precision has ever been made.

Section 60.535 of the regulation provides for accreditation for wood heater emission test laboratories. The conditions of accreditation require that both initial (see §60.535(b)(5)) and annual (see §60.535(b)(7)) proficiency testing be conducted by each accredited laboratory. The proficiency test requirements include conducting at least eight test runs (two in each of the burn rate categories described in EPA Method 28) on a wood heater identified (or actually provided) by EPA. The tests are conducted using all EPA wood heater emission measurement methods for which the particular test laboratory is seeking

initial accreditation, or seeking to maintain accreditation. For example, a laboratory that was accredited for Methods 5H and 5G-1 would run both methods during their eight proficiency test runs.

III. Test Method Variability

A. Basic Science

All measurement processes have an inherent element of variability in the measurement result if the process has sufficiently fine resolution. This variability can be evaluated empirically by performing multiple measurements of a single artifact and evaluating the mean and standard deviation of the test results. The relative magnitude of the standard deviation to the mean is a measure of the dispersion (variability) of the measurement process. This measure of dispersion includes variability that originates both from the measurement process and from changes in the artifact being measured, i.e., the inherent variability of the phenomenon being measured. When the measurement involves performance of a process which might be affected by uncontrolled variables or by the ranges allowed for operational parameters within the process, the variability associated with the process is usually much greater than that that arises from the uncertainty of the actual measurements made.

The "rifle" example is a common way of explaining these issues: If a rifle is repeatedly fired at a target, the impacts of variability can be visibly demonstrated. If the rifle is locked into a firing stand and carefully prepared cartridges (bullet plus powder load) are used and if the rounds are fired over a short period of time where the effects of variations in wind, temperature, humidity and barometric pressure conditions are minimized, the cluster of hits on the target should be very tight. The dispersion that is seen can be attributed to the minute differences in the rounds, variations in the rifle barrel as is heats and accumulates residue as well as the other unpreventable small shifts in ambient conditions. If the same experiment is repeated under a wider range of ambient conditions, say on two different days with different wind conditions, one might expect a wider dispersion of results. If the test is repeated with the rifle fired hand-held by the shooter, the dispersion will almost certainly be wider yet. If two different shooters fire the same rifle, the dispersion will widen further. If the shooters use two different rifles of the same model, again the results will almost certainly spread further. And so on and so on. In other words, as the opportunity for variation in the test conditions expands, so does the likelihood that the variation in the results will also increase.

Understanding and quantifying the variability in measurement systems is a scientific discipline. That discipline uses standardized terminology to categorize and organize the various sources of variability. That terminology is as follows:

Any test procedure that results in a numerical measurement of a product or material attribute is subject to a quantifiable value of "measurement uncertainty". Each

¹ Two other concepts need brief mention: "accuracy," and "bias". "Accuracy" is the closeness of agreement between a test result and an accepted reference value. Ref.: ASTM E177. "Bias" is the total

measurement that is made as part of the test procedure, and ultimately combined mathematically to produce a result, contributes to the overall uncertainty of that result. The more measurements made, the greater the overall uncertainty.

The closeness of agreement between independent test results obtained under stipulated conditions is the "**precision**" of the measurement. Ref.: ASTM E177. Precision is usually broken down further into:

Repeatability – The closeness of multiple measurements of the same artifact under the same conditions with the same equipment and operator. The symbol "r" is often used to refer to repeatability. Repeatability can be evaluated by replicate tests of the same product at the same laboratory following the defined procedure.

Reproducibility – The closeness of measurements made on the same or presumed to be identical artifacts by different laboratories, equipment and operators. The symbol "R" is often used for reproducibility. Reproducibility can be evaluated for any quantitative measurement system through an Interlaboratory Study or round robin test program.

B. Quantifying Test Method Precision

1. The Available Data

The primary data set available to evaluate test result variability is that generated through the EPA required Accredited Laboratory Proficiency Test Program. These data supplied by EPA provides a substantial data set which allows assessment of the intralab repeatability (r), and inter-lab reproducibility (R) for emissions testing using the NSPS specified test methods.

The laboratories that participated in the proficiency testing are:

Apex Environmental EEMC

EESPC Engineering Sciences
Intertek-Middleton Intertek-Montreal
Lokee Testing Myren Consulting
Northwest Testing OMNI-Oregon

OMNI-RTP PFS

Shelton Research Underwriters Laboratories

Note: For the purposes of this paper, EEMC, EESPC and Lokee have been grouped together as one entity based on the understanding the test equipment remained the same throughout the changes of ownership.

systematic error in a measurement, as contrasted to random error. Ref.: ASTM E177. Quantification of both accuracy and bias requires a reference standard or material with known properties and known uncertainty of those properties. Since no wood stove exists that can consistently produce a specific emissions rate, there is no way to evaluate the accuracy or bias of the test procedures. Accordingly, "accuracy" and "bias" will not be discussed further in this paper.

In this program each of these accredited laboratories was supplied with a test appliance which EPA modified in a manner designed to assure that it would be robust enough to operate the same way after being shipped from lab to lab.

Each laboratory was directed to conduct two full series of four test runs (two test runs in each of the four burn rate categories) in each round of proficiency testing. In addition, some laboratories that were accredited for more than one of the EPA methods were required to run both types of sampling equipment during their test runs and submit two sets of data. For example, a lab that was accredited for method 5H and 5G-1 would run both during their eight test runs. All Method 5G-1 and 5G-3 data were "adjusted to Method 5H equivalent²" using the formula $E_{Hequiv.} = 1.82 \times E^{0.83}$. Ref.: 40 CFR Part 60, Subpart AAA, Appendix A, Section 6.6, Eq. 5G-5.

In 1987 and 1988, EPA was able to send the first proficiency stove to each accredited laboratory in both years and obtain complete data sets. In 1989 a second proficiency stove was tested at each accredited laboratory, but several laboratories dropped their accreditation in the first two years of the program. From 1990 on, there was a further reduction in the number of laboratories participating and the schedule for proficiency testing was less rigorous. However, one test stove was used from 1993 - 2000. So there are three stoves with multiple test data sets from multiple laboratories. The data from these tests show no pattern of change over time that would indicate deterioration of the test appliance's performance.

Table 1 is a compilation of weighted average emission rates using all eight runs (or more if the lab ran more than 2 in a burn rate category). The weighted average emission rates were computed from individual test run data that were provided to the primary author by EPA upon request in 2006. These data are included in their entirety in Appendix A. The primary author of this paper performed a limited quality check on the data, by comparing a sample of the data to the original test reports submitted by his laboratory and others, and determined that the check sample and the original submissions were identical. Table 1 utilizes all proficiency test program data provided by EPA, and is grouped for each stove tested as well as being categorized by test laboratory and test year.

because it results in an analysis of the precision of the EPA methods as written and used.

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² Although this conversion of data can be thought of as adding another layer of uncertainty to the results, especially since the adjustment equation is non-linear and it was itself based on a "best judgment" curve-fit to experimental data (with its own undetermined uncertainty), including the data adjustment is appropriate

Table 1

	EPA Proficiency	Test Data Summar	y - EPA Weighted	Average Emissions - g/hr
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							YEAR					
Lab Code	Method	1987	1988	1989	1990	1993	1995	1996	1997	1999	2000	2005
Α	5G	2.71										
В	5G	5.96	3.03									
С	5H	2.21	1.51	14.46	6.51							
D	5G	5.72	2.77		7.32	6.24					5.89	15.60
E	5G	6.16	2.69	14.42	13.79		9.40			6.39		10.32
E1	5H	6.09		13.66								
F	5G		4.12	12.53	6.69							
F1	5H			12.40								
G	5G	2.95										
Н	5G	19.10										
H1	5H	12.45	6.22	15.39		4.90			4.12	2.88		
l	5G		2.42									
J	5G			17.57		4.86						
K	5G						6.43				13.82	
L	5G							6.06	4.81	4.90		
Stove		Catal	ytic 1	Non-Cat 1	Non-Cat 2			Non-	Cat 3			Non-Cat 4
EPA Cert.		3	.1	7.5	4.5			3	.6			3.1

2. Data Analysis Options

Since there is no published EPA method for determining test method precision, two separate data analysis methodologies were employed.

• "Macro" Analysis Using Standard Statistical Tools

In Table 2, we present the results of a "macro" analysis of the data using standard statistical tools. Since there is a wide range in the weighted average emissions performance for each stove in the database, both the standard deviation and the coefficient of variation (CV)³ were computed for each stove to avoid any potentially misleading assessments of variability that might result from the wide range in the calculated means for the individual test stoves.

³ The coefficient of variation represents the ratio of the standard deviation to the mean, and it is a useful statistic for comparing the degree of variation from one data series to another, even if the means are drastically different from each other. The coefficient of variation is useful because the standard deviation of data must always be understood in the context of the mean of the data. The coefficient of variation is a dimensionless number. So when comparing between data sets with different units or widely different means, one should also determine the coefficient of variation for comparison instead of the standard deviation alone. In this case there is a wide range in the average emission performance of the various test stoves and assessing the variability of the results using just the standard deviation without also assessing the CV could be misleading.

Table 2.

EPA Proficiency Test Data Summary - EPA Weighted Average Emissions - g/hr

						····	YEAR					
Lab Code	Method	1987	1988	1989	1990	1993	1995	1996	1997	1999	2000	2005
Α	5G	2.71										
В	5G	5.96	3.03									
C	5H	2.21	1.51	14.46	6.51							
D	5G	5.72	2.77		7.32	6.24					5.89	15.60
E	5G	6.16	2.69	14.42	13.79		9.40			6.39		10.32
E1	5H	6.09		13.66								
F	5G		4.12	12.53	6.69							
F1	5H			12.40								
G	5G	2.95										
Н	5G	19.10*										
H1	5H	12.45*	6.22	15.39		4.90			4.12	2.88		
l	5G		2.42									
J	5G			17.57		4.86						
K	5G						6.43				13.82	
L	5G							6.06	4.81	4.90		
Stove		Catal		Non-Cat 1	Non-Cat 2				Cat 3			Non-Cat 4
EPA Cert.		3	.1	7.5	4.5	3.6					3.1	
Mean		3.9	90	14.35	8.58	6.21					12.96	
SD		1.	74	1.78	3.49			2.	75			3.73
CV			7%	12.4%	40.7%			44.	4%			28.8%
			I /H1 1987									
N		Exclu	uded)	7	4			1	3			2

^{*} Data exluded as outliers based on Grubb's test for outliers.

From the Table 2 data it is apparent that the repeatability and reproducibility of the test procedures are not very good.

Without applying any statistical tools, one can simply look at the results of testing the same stove in the same laboratory over two or more years to see the range of intralaboratory results.

And looking at the results from all the laboratories for all the stoves over all the years of the program, it is possible to assess the inter-laboratory precision. Using 2.8 times the standard deviation to estimate the potential range of results that could be expected with a 95% confidence level [Ref.: ASTM E177, 28.1], it is clear that the for any given test series the reproducibility is on the order of $\pm 4.9 - 9.8$ grams per hour.

This means that for any emissions rate measured using the EPA test methods, the result could be 4.9 to 9.8 grams per hour higher or lower if the appliance were tested again at a different laboratory. Even at one standard deviation (68% confidence level), the reproducibility interval is about 1.7 to 3.5 grams per hour, i.e., there is a 32% chance that a new test result would deviate by more than this amount.

The CV calculations further confirm that variability is high (>40 % CV) for the three test stoves with significant data sets but it is not consistent for all units. The 2005 data can be discounted since two data points are too few to draw any valid conclusions. Since CV is calculated from one standard deviation, the implied variability in the actual data is really about 2.8 times the CV at a 95% confidence level. For example, a CV of 40% implies that the results of any one test could vary by +/- 112% from a population mean with a probability of 5% or less of being farther away.

Precision Analysis Using ASTM E691

Consistent with the National Technology Transfer and Advancement Act, which creates a presumption in favor of using consensus standards, we determined that ASTM E691 – Standard Practice for Conducting an Interlaboratory Study to Determine the Precision of a Test Method was appropriate for use here.

ASTM E691 provides procedures for planning and conducting studies of the precision of test methods, and also provides statistical techniques for performing precision analyses. Since the EPA proficiency test program has been on-going for more than 20 years, the test program design components {Sections 6 – 14) of ASTM E691 are not germane here. However, the analytical procedures can be applied to the EPA proficiency test data for the purposes of determining precision (both r & R). In the following subsections, these procedures are first described generally and then specifically as they were applied to the EPA proficiency test data.

ASTM E691 Analytical Procedure and Terminology

The analysis utilizes tabular, graphical, and statistical diagnostic tools for evaluating the consistency of the data so that unusual values may be detected and investigated, and also includes the calculation of the numerical measures of precision of the test method pertaining to both within-laboratory repeatability and between-laboratory reproducibility (r & R).

Table of Test Results—The test results received from the laboratories are arranged in rows and columns. Each column contains the data obtained from all laboratories for one test sample, and each row contains the data from one laboratory for all test samples. The test results, x, from one laboratory on one test sample constitute a cell. The results of the following calculations for that test sample are also entered on the table.

Cell Statistics:

 $\overline{Cell\ Average^4}$, \overline{x} —This statistic is the cell average for each laboratory.

$$\overline{x} = \sum_{i=1}^{n} x / n$$
 where $n =$ the number of test results per cell

Average of the Cell Averages, $\overline{\overline{x}}$ —This statistic is the average of all the cell averages for the one material and all laboratories.

$$\overline{\overline{x}} = \sum_{j=1}^{p} \overline{x} / p$$
 where $p =$ the number of laboratories

Cell Standard Deviation, s—This statistic is the standard deviation of the test results in each cell and is calculated as the square root of the sum of the squares of the cell

⁴ ASTM E691 refers to the term "average" when defining statistical terminology. "Average" is equivalent to the "arithmetic mean". The term "mean", when used in this paper should be considered interchangeable with "average" as defined in ASTM E691.

value minus the cell average divided by one less than the number of test results in the cell.

$$s = \sqrt{\sum_{1}^{n} (x - \overline{x})^{2} / (n - 1)}$$

Cell Deviation, d— The cell deviation is calculated by subtracting the average of the cell averages for all laboratories from the cell average for each laboratory.

$$d = \overline{x} - \overline{\overline{x}}$$

Standard Deviation of the Cell Averages, $S_{\overline{x}}$ —This statistic is calculated as the square root of the sum of the squares of the cell deviation divided by one less than the number of laboratories.

$$s_{\overline{x}} = \sqrt{\sum_{1}^{n} d^{2}/(p-1)}$$

Precision Statistics

While there are other precision statistics, the fundamental precision statistics of the Interlaboratory Study are the repeatability standard deviation and the reproducibility standard deviation. Other statistics are calculated from these standard deviations.

Repeatability Standard Deviation, S_r —This statistic is calculated as the square root of the sum of the squares of the cell standard deviation divided by the number of laboratories

$$s_r = \sqrt{\sum_{1}^{p} s^2 / p}$$

Reproducibility Standard Deviation, s_R — This statistic is calculated as the square root of the square of the standard deviation of the cell average plus the square of the repeatability standard deviation (first adjusted for the number of test results) or is equal to s_r , if s_r is larger than s_R .

$$s_R = \sqrt{(s_{\bar{x}})^2 + (s_r)^2 (n-1)/n}$$

Consistency Statistics

The statistical analysis of the data for estimates of the precision statistics is simply a one-way analysis of variance (within- and between-laboratories) carried out separately for each material. Since such an analysis can be invalidated by the presence of severe outliers, it is necessary to first examine the consistency of the data.

Between-laboratory Consistency Statistic, **h**— This statistic is calculated as the cell deviation divided by the standard deviation of the cell averages.

$$h=d/s_{\bar{x}}$$

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Within-laboratory Consistency Statistic, **k**— This statistic is calculated as the cell standard deviation from one laboratory divided by the repeatability standard deviation of the material.

$$k = s / s_{\pi}$$

Critical Values of the Consistency Statistics—A table⁵ list critical values of the h and k consistency statistics at the 0.5 % significance level. The critical values for h depend on the number of laboratories, p, and the critical values for k depend both on the number of laboratories, p, and on the number of replicate test results, n, per laboratory per material. When cell values approach or exceed the critical values for h and k, those cells or laboratories should be investigated for data problems.

• ASTM E691 Precision Analysis

The proficiency test data was then analyzed to determine test method precision using the procedures outlined in ASTM E691 as described above.⁶

Separate tables (Tables 3a-3c) were created for each of the different stoves that were tested over the years the proficiency test program was conducted where there is sufficient data to apply the procedures specified in ASTM E691⁷. Each participating test lab has a row in each table. Since the proficiency test program required two emission tests in each Method 28 burn rate category, it was possible to calculate two EPA weighted average emission results for each proficiency test series. To do this, the first runs conducted in each of the four burn rate categories were grouped together for the purposes of determining the first weighted average emissions. Likewise, the second run in each burn rate category produces the second weighted average emissions result. This methodology was employed since the burn rate category tests were generally not conducted in any specific order and grouping the first runs in each category most closely simulates an actual emission certification test. The numbered columns in each table represent the weighted average emissions results for the grouped data for the different test series on the particular test stove. For example, in Table 3a, Lab A only participated in one year of testing on Catalytic Stove 1. By grouping the eight individual test runs as described above, two weighted average emissions values result for that lab for that stove and are shown in the columns labeled 1 and 2. Lab E participated in both test years and ran two test methods simultaneously in both years. The results from the second method are shown in the row labeled E1. The data grouping methodology results in four separate EPA weighted average emission rates for

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⁵ ASTM E691 Table 5

⁶ In some cases, inadequate data precluded using all data in the analyses. In 2005, only two test laboratories conducted proficiency testing and Non-Cat 4 was not tested in any other year. ASTM E691 requires a minimum of three laboratories for a single sample so the 2005 data was not used.

⁷ Ideally the data set used for this analysis should contain a minimum of 3 replicate tests from each of at least 6 laboratories. In Tables 3a-3c, only data from the proficiency test stoves that have sufficient data for a statistically meaningful evaluation are presented.

this lab for Catalytic Stove 1 for the 5G method as shown in the columns labeled 1 through 4 and rows labeled E and four additional results for the 5H method in row E1.

The next column shows \bar{x} , the mean of all test series results on the tested stove for each lab. In this case, this includes the two test series for each proficiency test and multiple proficiency tests results on the same test stove whenever available. The columns to the right of \bar{x} include the statistical information about the results from each lab for all test series for each sample tested per ASTM E691, as described above. This statistical information includes s, the standard deviation for individual lab results, d, the cell deviation (how much the cell mean deviates from the overall mean), h_{ij} , a "between laboratory consistency statistic" and k, a "within laboratory consistency statistic". These latter two are measures of whether data included in the analysis should be investigated for problems. Three weighted average emissions data points were excluded from the analysis based on this test. They are marked with * in the tables that follow. Also included in the table are $\overline{\overline{x}}$, the overall mean for all test series from all labs, $S_{\overline{x}}$, the standard deviation of the overall mean, S_r , the repeatability standard deviation as well as S_R , the reproducibility standard deviation. Finally, values for repeatability (r) and reproducibility (R) are shown to provide the true assessment of the precision demonstrated by the EPA proficiency test data.

Table 3a

		1987-19	88 Catal	ytic Stov	e 1 - AS	TM E691 .	Analysis				
		3	c							Critical	Values
Lab	1	2	3	4	Ī	s	d	h	k	h-Crit.	k-Crit.
Α	2.77	2.67			2.72	0.07	-1.19	-0.95	0.06	2.15	2.36
В	5	6.69	3.44	3.28	4.6	1.59	0.7	0.56	1.27	2.15	1.92
С	2.28	1.78	1.48	1.78	1.83	0.33	-2.08	-1.66	0.26	2.15	1.92
D	5.6	6.09	2.83	2.8	4.33	1.76	0.42	0.34	1.4	2.15	1.92
E	6.53	5.78	4.69	3.4	5.1	1.36	1.19	0.95	1.08	2.15	1.92
E1	7.39	5.02	2.91	2.55	4.47	2.23	0.56	0.45	1.78	2.15	1.92
F	2.81	3.04			2.93	0.16	-0.98	-0.78	0.13	2.15	2.36
G	22.44*	11.19*	5.19	5.37	5.28	0.13	1.37	1.1	0.1	2.15	2.36
				$\bar{\bar{x}}$	3.91					_	
				s_x	1.25		95% Confi	dence (±)			
				S _γ	1.26	Repeata	ability (r)	3.52	g/hr		
				s _R	1.62	Reproduc	cibility (R)	4.53	g/hr		
	* Data excluded as outliers.										

Table 3b

	1989 Non-Catalytic Stove 1 - ASTM E691 Analysis											
	x									Critical	Values	
Lab	1 2 3 4				Ā	S	d	h	k	h-Crit.	k-Crit.	
А	13.55	11.65			12.6	1.34	-1.41	-0.1	1.29	2.05	2.30	
A1	13.34	10.9			12.12	1.73	-1.89	-0.13	1.65	2.05	2.30	
В	13.68	14.03			13.86	0.25	-0.15	-0.01	0.24	2.05	2.30	
B1	12.84	13.35			13.1	0.36	-0.91	-0.07	0.35	2.05	2.30	
С	14.47	14.31			14.39	0.11	0.38	0.03	0.11	2.05	2.30	
D	17.08	16.99			17.04	0.06	3.03	0.22	0.06	2.05	2.30	
Е	13.81	16.11			14.96	1.63	0.95	0.07	1.56	2.05	2.30	
				$\bar{\bar{x}}$	14.01					_		
				s_x	1.66		95% Confi	dence (±)				
				5,	1.04	Repeata	bility (r)	2.92	g/hr			
				s _R	1.82	Reproduc	ibility ($oldsymbol{R}$)	5.1	g/hr]		
				h						4		

Table 3c

	1993-2000 Non-Catalytic Stove 3 - ASTM E691 Analysis												
	x											Critica	l Values
Lab				6	\bar{x}	S	d	h	k	h-Crit.	k-Crit.		
А	10.22	5.93	7.15	5.54	18.52*	7.61	7.29	1.85	-1.41	-0.1	1.29	1.92	1.75
В	7.25	13.06	6.8	8.24			8.84	2.88	-1.89	-0.13	1.65	1.92	1.84
С	5.23	5.2					5.22	0.02	-0.15	-0.01	0.24	1.92	2.22
D	5.61	7.84	3.41	9.25	4.16	5.27	5.92	2.22	-0.91	-0.07	0.35	1.92	1.68
E	7.02	4.15	6.39	3.5	4.08	1.5	4.44	2.01	0.38	0.03	0.11	1.92	1.68
F	7.26	5.56					6.41	1.2	3.03	0.22	0.06	1.92	2.22
						$\bar{\bar{x}}$	6.35						
						s_x	1.56		95% Confi	dence (±)	i	1	
						S ,	1.92	Repeata	bility (r)	5.38	g/hr		
						s _R	2.28	Reproduc	ibility $(\!R)$	6.39	g/hr]	
I	*Data excluded as outlier.												

Abbreviations:

s = standard deviation for individual lab results

 $d = \text{cell deviation} = \overline{x} - \overline{\overline{x}}$

 s_x = standard deviation of \bar{x}

 s_r = repeatability of standard deviation

 s_R = reproducibility of standard deviation

h = between laboratory consistency statistic

k = within laboratory consistency statistic

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• Conclusions from ASTM E691 Analyses

The Table 3a, 3b and 3c data shows that the repeatability (within lab), r, of the weighted average emissions rate determined by the EPA test methods at the 95% confidence level is at best ± 2.9 grams per hour and typically about ± 3.5 to ± 5.4 grams per hour. The reproducibility (between labs), R, at the 95% confidence level is ± 4.5 to ± 6.4 grams per hour.

3. Sources of Variability in EPA Wood Heater Testing

Given that 12 labs (five are still accredited) and all four particulate measurement methods are represented, it is important to try to understand if the repeatability and reproducibility issues are laboratory and method related or arise from a different source – that is, variable performance of the appliance itself.

To evaluate that question, we next investigated the potential sources of variability in the test methods. We started with the emissions measurement methods (5G-1, 5G-2, 5G-3 and 5H), and then addressed Method 28, which specifies how the appliance is to be operated during emission testing.

Emission Measurement Methods

Method 5G-1

Potential sources of variability in Method 5G-1 include the following:

- Accuracy of dilution tunnel gas flow and sample flow measurement and the resulting consistency of proportionality.
- Recovery of particulates from the probe and front half of filter holder using a solvent cleaner.
- Weighing errors for tare and final weights of filters and evaporation containers used to collect and weigh the catch.

These sources combine to produce an estimated measurement uncertainty of about ± 2.7 to 3% of the emission value measured for a typical passing wood stove test. See Appendix C for the derivation of this estimated uncertainty range.

Method 5G-2

Potential sources of variability in Method 5G-2 include the following:

- Accuracy of dilution tunnel gas flow and sample flow measurement and the resulting consistency of proportionality.
- Recovery of particulates from the probe and sampling line using a solvent cleaner.
- o Recovery of particulate collected in the impingers and connecting glassware.
- Weighing errors for tare and final weights of filters and evaporation containers used to collect and weigh the catch.

These sources combine to produce an estimated measurement uncertainty of about $\pm 3 - 3.5\%$ of the emission value measured for a typical passing wood stove test. See Appendix C for the derivation of this estimated uncertainty range.

Method 5G-3

Potential sources of variability in Method 5G-3 include the following:

- Accuracy of dilution tunnel gas flow and sample flow measurement and the resulting consistency of proportionality.
- Weighing errors for weights of filters, probes including front filter housings and filter seals.

The measurement uncertainty of method 5G-3 has been determined to be approximately $\pm 2.5\%$ of the emission value measured for a typical passing wood stove test. See Appendix C for the derivation of this estimated uncertainty range.

Method 5H

Potential sources of variability in Method 5H include the following:

- Accuracy of flue gas flow and sample flow measurement and the resulting consistency of proportionality.
- Recovery of particulates from the probe and sampling line using a solvent cleaner.
- Recovery of particulate collected in the impingers and connecting glassware.
- Weighing errors for tare and final weights of filters and evaporation containers used to collect and weigh the catch.

These sources combine to produce an estimated measurement uncertainty of about \pm 20 to 30% of the total particulate mass determination. See Appendix C for the derivation of this estimated uncertainty range.

Conclusions Regarding the Contribution of Emissions Measurement Method Uncertainty to Overall Method Variability

It is apparent from the foregoing analysis that the emission measurement methods explain only a small part of the overall variability that has been discussed and quantified in Section III. It is clear, however, from this analysis that some emission measurement methods contribute less to variability than others with Method 5G-3 the best performer in this regard.8

⁸ With the objective of improving the wood heater test methods based on more than twenty years of experience with the current EPA methods, ASTM E06.54 sub-committee was charged with creating new methods. The first step was to specify only one particulate measurement procedure to help reduce the measurement uncertainty associated with multiple measurement methods. This resulted in the subcommittee's development of ASTM E2515, which specifies a procedure that corresponds very closely to EPA Method 5G-3 but has provisions that allow appliance types other than just wood and pellet heaters to be tested. This procedure was selected because it has the smallest measurement uncertainty of the four current EPA methods and contains the dual train measurement which allows for ready detection of invalid results.

• Operating Protocol for the Appliance (EPA Method 28)

Potential Sources of Variability in Method 28 include the following:

- o Fuel density variation from approximately 30 to 40 lb/ft³ (dry weight basis).
- Fuel moisture content variation from 19 to 25% dry basis (varies in uniformity as well as average).
- Fuel load configuration details.
- Coal bed size (20-25% of fuel load weight) and pre-burn temperature conditions
- Loading time and start-up procedure.
- o Ambient temperature, barometric pressure and humidity.
- Variations in control settings and resulting burn rates.
- Random uncontrollable variables such as when and how the fuel load settles, falls and collapses.

Using the EPA proficiency test data, it is possible to examine several of the various Method 28 parameters for their impact on precision.

The first is an analysis of the impacts of burn rate variations. It is known that emissions performance is related to burn rate to some degree with higher burn rates generally producing more complete combustion.

The proficiency test data does not lend itself well to determining burn rate variability in that each lab must adjust air controls to a setting that will produce a burn rate in one of the required categories. The exception is the high burn rate (Category 4) which is always run with the air controls fully open. Table 4 is a compilation of the Category 4 burn rates from the proficiency test program. Note that the specific labs designated by the lab codes were different from year to year.

Table 4

EPA Proficiency Test Data - High Burn Rates - Dry kg/hr

			***************************************	***********************	Lab	***************************************	***********************				
Stove	Year	1	2	3	4	5	6	7	Mean	SD	CV
	1987	2.16	2.66	1.74	2.13	2.06	1.69	2.99			
Catalytic Stove 1	1301	2.24	2.90	1.89	2.36	2.06	1.74	4.27*			
Catalytic Stove i	1988	1.96	2.08	1.41	2.13	2.27	2.21	1.57			
	1300	2.11	2.13	2.09	2.27	2.92	2.23	2.04	2.15	0.38	17.8%
Non-Cat 1	1989	1.77	2.06	2.50	1.95	1.85					
nun-cat i	1303	1.83	2.32	2.60	2.02	1.91			2.08	0.29	14.0%
Non-Cat 2	1990	4.39	3.05	2.26							
mon-cat z	1330	4.84	3.14	3.49					3.53	0.94	26.7%
	4002	3.20	2.91	4.76							
	1993	3.23	3.75	5.18							
	1995	4.08	1.38								
	1333	4.73	1.40								
	1996	3.10									
Non-Cat 3	1.7.30	3.70									
11/11-2/01/2	1997	3.17	3.24								
	1.05.05.1	3.29	3.27								
	1999	4.18	3.80	3.73							
	1.0 0 0	4.49	4.57	4.67							
	2000	4.71	2.90								
	LVUU	7.09	3.97						3.79	1.15	30.4%
Non-Cat 4	2005	2.54	2.82								
883798-7 ₄ -484, 16	LUUJ	2.57	3.20						2.78	0.31	11.0%

^{*} Data not included in statistical analysis.

The high burn rate variability is substantial, and it is certain that this variability is a contributing factor in the emissions variability, but it is not likely that it is the most important factor. There are many instances in the proficiency test data where two runs in one lab at very similar burn rates produced substantially different emissions rates. See Appendix B for burn rate versus emissions plots of all the individual run data.

Charts 1 and 2 show the relationship between emissions and fuel moisture content and emissions and load weight (assumed to relate to fuel density) for the 121 runs conducted on the catalytic proficiency test stove in 1987 and 1988. Using the "Corner Score" statistical test where a score of >11 indicates potential dependency between variables [Ref.: Mark's Standard Handbook for Mechanical Engineers, 17-22], it is clear that there is no relationship.

Chart 1

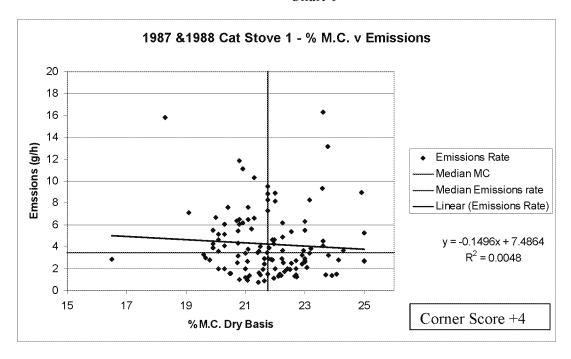
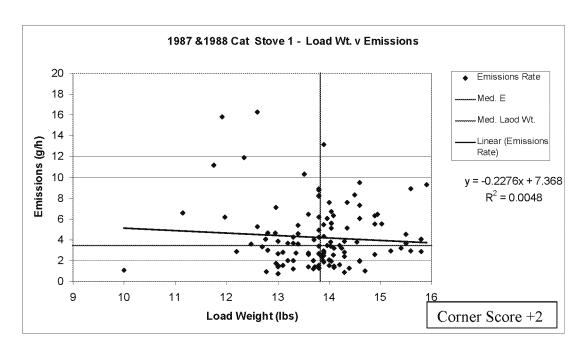


Chart 2



By practical necessity, EPA Method 28 contains tolerances on operational and fueling parameters. These include fuel density, moisture content, laboratory ambient temperature, coal bed size, fuel load weight and several others. While it might be supposed that the method variability could be lessened by even tighter specifications within the test method relating to fuel and operating conditions, the data does not support this proposition.

Without these tolerances or specified ranges wood heater emission testing would become prohibitively expensive with significant additional costs incurred while attempting to control these variables within a significantly narrower range than specified. As demonstrated, these additional costs would not significantly reduce variability.

IV. Final Conclusions

The repeatability and reproducibility of wood heater emission testing as demonstrated by the EPA accredited laboratory proficiency test data is quite poor. At the 95% confidence level, repeatability for the EPA weighted average emission rate is at best ± 2.9 g/hour and ranged as high as ± 5.4 g/hour. The reproducibility was no better than ± 4.5 g/hour and ranged as high as ± 6.4 g/hour.

Further analyses of the potential sources of variability have shown that the emission measurement test methods (EPA Methods 5G-1, 5G-2, 5G-3 and 5H) are not major contributors to the high overall variability being demonstrated by the data. However, Method 5G-3 does demonstrate the lowest uncertainty of the four methods currently specified in the NSPS.

Analyses of the variability inherent in EPA Method 28 also indicate that the operational and fuel parameter tolerance ranges specified in that method are not major contributors to the high variability. Tightening these parameters to improve test precision would simply increase costs and the data show that such tightening would not significantly improve precision.

This leaves the only logical conclusion. Variability in wood heater emission testing results for any given appliance is most likely a function of the random nature of burning wood, no matter how tightly you try to control the process. Many relatively small, uncontrollable variables that are inherent in the wood combustion process can combine to significantly affect the outcome of any given test.

These conclusions should not be taken to mean that the current test methodology is inadequate to characterize an appliance's emissions performance. There is no question that the currently certified low emissions wood heaters produce far less particulate emissions than their pre-regulation predecessors which produced emissions rates of 50 to 100 grams per hour or more. Our primary conclusion is that the current testing process simply cannot consistently distinguish emissions performance differences of less than 3 to 6 grams per hour. The process is certainly capable of reliably distinguishing between good and bad performance, but it cannot reliably distinguish between "good, better and best" performance.⁹

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⁹ To return to the "rifle" analogy, wood stoves are not modern high powered rifles in the hands of an expert marksman who can place a dozen shots in a 2 inch bull's-eye at 100 yards. They are rather more like a smooth bore flintlock pistol where just "hitting the paper" at 50 feet is an accomplishment.

Appendix A. - Raw Data

Note: The laboratory codes indicated in this appendix are not those used in the tables in the body of the paper since EPA assigned the lab codes to different labs from year to year. Labs have not been identified by name to maintain the anonymity of the participants.

Year	1987				
Stove	Catalytic -	1			
		Burn	Test		
		Rate	Load	% M	Emissions
Lab A	Run	(Kg/h)	Wt. (lb)	WET	(g/h)
5G	1	1.15	13.90	18.40	2.48
	2	2.16	13.30	18.00	4.25
	3	1.15	13.00	17.40	2.69
	4	1.35	13.30	18.20	3.67
	5	2.24	13.80	16.60	4.25
	6	0.79	13.30	17.40	1.18
	7	1.74	13.00	16.60	3.88
	8	0.73	10.00	18.00	1.09
	_				
Lab B	Run		40.00	DRY	
5G	0	1.10	12.69	19.60	3.30
	1	2.90	12.76	18.90	28.11
	2	2.16	11.92	18.30	15.79
	3	0.56	12.19	16.50	2.83
	4	1.10	12.96	19.10	7.10
	5	0.99	12.76	20.30	4.07
	6	2.66	11.75	20.90	11.13
	7	2.03	11.97	20.90	6.18
	8	2.10	12.34	20.80	11.87
	9	1.69	11.15	21.30	6.60
Lab C	Run			DRY	
5H	1	1.42	14.10	22.90	3.20
311	2	1.42	13.20	24.29	3.63
	3	1.74	14.30	24.13	2.79
	4	1.74	14.00	23.07	2.73
	5	1.12	14.60	21.60	1.91
	6	1.12	13.80	22.20	1.35
	7	0.87	13.80	22.20	1.33
	8	0.87	14.30	21.63	0.89
	9	0.57	15.40	20.75	3.16
	3	0.01	17,40	20.75	2.10

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Lab D	Run			DRY	
5G	1	2.13	15.03	19.90	5.50
	2	2.36	14.05	20.00	6.68
	3	1.36	13.97	20.30	6.07
	4	0.83	14.05	21.20	5.60
	5	0.57	14.03	21.00	3.40
	6	1.43	14.01	21.08	7.60
	7	1.10	14.05	20.10	5.14
	8	1.06	14.08	20.70	6.34
Lab E	Run			WET	
5G	1	2.06	14.90	18.70	6.30
	2	2.06	13.80	18.03	8.15
	3	1.56	14.60	17.86	7.30
	4	0.67	13.80	17.86	1.50
	5	1.34	13.80	18.20	6.15
	6	0.59	13.70	17.36	2.00
	7	0.91	13.80	17.86	8.25
	8	0.83	13.90	17.18	5.45
Lab E1	Run			WET	
Lab E1 5H	Run 1	2.06	14.90	WET 18.70	5.50
		2.06 2.06	14.90 13.80		5.50 8.90
	1			18.70	
	1 2	2.06	13.80	18.70 18.03	8.90
	1 2 3	2.06 1.56	13.80 14.60	18.70 18.03 17.86	8.90 9.50
	1 2 3 4	2.06 1.56 0.67	13.80 14.60 13.80	18.70 18.03 17.86 17.86	8.90 9.50 1.50
	1 2 3 4 5	2.06 1.56 0.67 1.34	13.80 14.60 13.80 13.80	18.70 18.03 17.86 17.86 18.20	8.90 9.50 1.50 4.90
	1 2 3 4 5 6	2.06 1.56 0.67 1.34 0.59	13.80 14.60 13.80 13.80 13.70	18.70 18.03 17.86 17.86 18.20 17.36	8.90 9.50 1.50 4.90 1.20
	1 2 3 4 5 6 7	2.06 1.56 0.67 1.34 0.59 0.91	13.80 14.60 13.80 13.80 13.70 13.80	18.70 18.03 17.86 17.86 18.20 17.36 17.86	8.90 9.50 1.50 4.90 1.20 8.80
	1 2 3 4 5 6 7	2.06 1.56 0.67 1.34 0.59 0.91	13.80 14.60 13.80 13.80 13.70 13.80	18.70 18.03 17.86 17.86 18.20 17.36 17.86	8.90 9.50 1.50 4.90 1.20 8.80
5H	1 2 3 4 5 6 7 8	2.06 1.56 0.67 1.34 0.59 0.91	13.80 14.60 13.80 13.80 13.70 13.80	18.70 18.03 17.86 17.86 18.20 17.36 17.86 17.18	8.90 9.50 1.50 4.90 1.20 8.80
5H Lab F	1 2 3 4 5 6 7 8	2.06 1.56 0.67 1.34 0.59 0.91 0.83	13.80 14.60 13.80 13.70 13.80 13.90	18.70 18.03 17.86 17.86 18.20 17.36 17.86 17.18	8.90 9.50 1.50 4.90 1.20 8.80 4.35
5H Lab F	1 2 3 4 5 6 7 8 Run	2.06 1.56 0.67 1.34 0.59 0.91 0.83	13.80 14.60 13.80 13.70 13.80 13.90	18.70 18.03 17.86 17.86 18.20 17.36 17.86 17.18	8.90 9.50 1.50 4.90 1.20 8.80 4.35
5H Lab F	1 2 3 4 5 6 7 8 Run 1 2	2.06 1.56 0.67 1.34 0.59 0.91 0.83	13.80 14.60 13.80 13.70 13.80 13.90	18.70 18.03 17.86 17.86 18.20 17.36 17.86 17.18 DRY 21.30 23.20	8.90 9.50 1.50 4.90 1.20 8.80 4.35
5H Lab F	1 2 3 4 5 6 7 8 Run 1 2 3	2.06 1.56 0.67 1.34 0.59 0.91 0.83	13.80 14.60 13.80 13.70 13.80 13.90 13.90	18.70 18.03 17.86 17.86 18.20 17.36 17.86 17.18 DRY 21.30 23.20 23.00	8.90 9.50 1.50 4.90 1.20 8.80 4.35
5H Lab F	1 2 3 4 5 6 7 8 Run 1 2 3 4	2.06 1.56 0.67 1.34 0.59 0.91 0.83 1.69 1.63 0.99 0.93	13.80 14.60 13.80 13.70 13.80 13.90 13.90	18.70 18.03 17.86 17.86 18.20 17.36 17.86 17.18 DRY 21.30 23.20 23.00 22.90	8.90 9.50 1.50 4.90 1.20 8.80 4.35 10.30 3.80 2.70 2.40
5H Lab F	1 2 3 4 5 6 7 8 Run 1 2 3 4 5	2.06 1.56 0.67 1.34 0.59 0.91 0.83 1.69 1.63 0.99 0.93 0.93	13.80 14.60 13.80 13.70 13.80 13.90 13.52 14.03 13.36 13.86 13.88	18.70 18.03 17.86 17.86 18.20 17.36 17.86 17.18 DRY 21.30 23.20 23.00 22.90 22.70	8.90 9.50 1.50 4.90 1.20 8.80 4.35 10.30 3.80 2.70 2.40 2.00

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Lab G	Run			WET	
5G	1	4.27	14.50	18.80	8.29
	2	1.02	14.10	19.20	35.98
	3	0.72	14.30	19.00	19.49
	4	0.82	13.90	19.10	17.01
	5	0.77	14.10	19.30	1.36
	6	1.53	12.60	19.10	16.29
	7	1.46	13.90	19.20	13.16
	8	2.99	13.90	18.70	2.91
Lab H	Run				
5H	1	1.68	n/a	n/a	5.537
511	2	1.12	11/ 4	117 G	5.713
	3	1.72			6.62
	4	1.01			7.531
	5	2.22			8.08
	6	2.24			19.018
	7	0.7			7.213
	8	0.44			2.386
	4000				
Year	1988				
Year Stove	1988 Catalytic-1				
		Burn	Test	07.84	Fortistans
Stove	Catalytic-1	Burn Rate	Load	% M	Emissions
Stove Lab A	Catalytic-1	Burn Rate (Kg/h)	Load Wt. (lb)	WET	(g/h)
Stove	Catalytic-1 Run 1	Burn Rate (Kg/h) 1.51	Load Wt. (lb) 15.20	WET 17.88	(g/h) 2.91
Stove Lab A	Run 1 2	Burn Rate (Kg/h) 1.51 1.96	Load Wt. (lb) 15.20 15.50	WET 17.88 18.67	(g/h) 2.91 3.66
Stove Lab A	Run 1 2 3	Burn Rate (Kg/h) 1.51 1.96 0.60	Load Wt. (lb) 15.20 15.50 15.60	WET 17.88 18.67 18.19	(g/h) 2.91 3.66 2.89
Stove Lab A	Run 1 2 3 4	Burn Rate (Kg/h) 1.51 1.96 0.60 0.65	Load Wt. (lb) 15.20 15.50 15.60 15.90	WET 17.88 18.67 18.19 19.09	(g/h) 2.91 3.66 2.89 9.32
Stove Lab A	Run 1 2 3	Burn Rate (Kg/h) 1.51 1.96 0.60	Load Wt. (lb) 15.20 15.50 15.60 15.90 15.50	WET 17.88 18.67 18.19 19.09 19.11	(g/h) 2.91 3.66 2.89
Stove Lab A	Run 1 2 3 4 5	Burn Rate (Kg/h) 1.51 1.96 0.60 0.65 1.45	Load Wt. (lb) 15.20 15.50 15.60 15.90 15.50 15.60	WET 17.88 18.67 18.19 19.09	(g/h) 2.91 3.66 2.89 9.32 4.49
Stove Lab A	Run 1 2 3 4 5 6	Burn Rate (Kg/h) 1.51 1.96 0.60 0.65 1.45	Load Wt. (lb) 15.20 15.50 15.60 15.90 15.50	17.88 18.67 18.19 19.09 19.11 19.94	(g/h) 2.91 3.66 2.89 9.32 4.49 8.94
Stove Lab A	Run 1 2 3 4 5 6 7	Burn Rate (Kg/h) 1.51 1.96 0.60 0.65 1.45 1.20 2.11	Load Wt. (lb) 15.20 15.50 15.60 15.90 15.50 15.60 15.80	17.88 18.67 18.19 19.09 19.11 19.94 19.11	(g/h) 2.91 3.66 2.89 9.32 4.49 8.94 4.08
Stove Lab A 5H	Run 1 2 3 4 5 6 7 8	Burn Rate (Kg/h) 1.51 1.96 0.60 0.65 1.45 1.20 2.11	Load Wt. (lb) 15.20 15.50 15.60 15.90 15.50 15.60 15.80	17.88 18.67 18.19 19.09 19.11 19.94 19.11 17.94	(g/h) 2.91 3.66 2.89 9.32 4.49 8.94 4.08
Stove Lab A 5H	Run 1 2 3 4 5 6 7 8 Run Run	Burn Rate (Kg/h) 1.51 1.96 0.60 0.65 1.45 1.20 2.11 1.22	Load Wt. (lb) 15.20 15.50 15.60 15.50 15.60 15.80 15.80	WET 17.88 18.67 18.19 19.09 19.11 19.94 19.11 17.94	(g/h) 2.91 3.66 2.89 9.32 4.49 8.94 4.08 2.85
Stove Lab A 5H	Run 1 2 3 4 5 6 7 8 8 Run 1	Burn Rate (Kg/h) 1.51 1.96 0.60 0.65 1.45 1.20 2.11 1.22	Load Wt. (lb) 15.20 15.50 15.60 15.90 15.50 15.80 15.80	17.88 18.67 18.19 19.09 19.11 19.94 19.11 17.94 WET 18.70	(g/h) 2.91 3.66 2.89 9.32 4.49 8.94 4.08 2.85
Stove Lab A 5H	Run 1 2 3 4 5 6 7 8 Run 1 2	Burn Rate (Kg/h) 1.51 1.96 0.60 0.65 1.45 1.20 2.11 1.22	Load Wt. (lb) 15.20 15.50 15.60 15.50 15.60 15.80 15.80	WET 17.88 18.67 18.19 19.09 19.11 19.94 19.11 17.94 WET 18.70 20.00	(g/h) 2.91 3.66 2.89 9.32 4.49 8.94 4.08 2.85
Stove Lab A 5H	Run 1 2 3 4 5 6 7 8 8 Run 1 2 3 3	Burn Rate (Kg/h) 1.51 1.96 0.60 0.65 1.45 1.20 2.11 1.22	Load Wt. (lb) 15.20 15.50 15.60 15.90 15.50 15.80 15.80 15.80	WET 17.88 18.67 18.19 19.09 19.11 19.94 19.11 17.94 WET 18.70 20.00 20.00	(g/h) 2.91 3.66 2.89 9.32 4.49 8.94 4.08 2.85
Stove Lab A 5H	Run 1 2 3 4 5 6 7 8 Run 1 2	Burn Rate (Kg/h) 1.51 1.96 0.60 0.65 1.45 1.20 2.11 1.22	Load Wt. (lb) 15.20 15.50 15.60 15.50 15.60 15.80 15.80	WET 17.88 18.67 18.19 19.09 19.11 19.94 19.11 17.94 WET 18.70 20.00	(g/h) 2.91 3.66 2.89 9.32 4.49 8.94 4.08 2.85

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	6	0.61	13.10	17.00	1.54
	7	1.03	13.20	18.30	1.98
	8	2.13	13.40	18.40	5.38
Lab C	Run			DRY	
5G	1	1.11	13.90	21.63	2.88
	2	0.87	13.60	20.73	2.56
	3	1.41	13.80	23.17	3.38
	4	0.75	13.80	21.13	1.34
	5	2.12	12.80	20.08	4.66
	6	0.59	13.00	22.71	1.40
	7	2.09	12.80	19.67	2.96
	8	1.32	13.10	21.92	2.80
Lab D	Run			DRY	
5H	1	0.45	13.00	21.43	0.74
	2	2.13	14.30	21.64	2.39
	3	2.27	14.20	21.42	3.45
	4	1.82	13.90	22.50	1.89
	5	1.38	13.60	21.50	1.39
	6	0.76	14.40	22.73	1.23
	7	0.90	13.80	22.12	1.29
	8	1.18	14.20	21.46	1.61
Lab E	Run			DRY	
5G	1	1.82	13.97	21.73	3.48
	2	2.92	12.96	22.32	1.71
	3	0.65	13.02	22.17	1.47
	4	1.83	12.95	21.97	4.64
	5	1.18	12.48	21.46	3.57
	6	1.14	14.09	22.28	2.55
	7	0.47	12.77	21.06	0.93
	8	2.27	12.62	22.10	5.06
Lab F	Run			DRY	
5G	1	2.23	14.35	20.30	5.13
	2	1.85	14.95	20.80	6.47
	3	0.96	14.60	20.10	1.98
	4	1.47	14.55	21.10	3.77
	5	2.21	14.35	20.40	7.58

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	6	0.49	14.70	20.80	0.99
	7	0.76	14.00	20.50	1.52
	8	1.03	14.05	20.30	1.96
Lab G	Run			DRY	
5G	1	1.43	14.60	20.80	6.03
	2	2.04	13.60	21.10	6.47
	3	1.03	14.30	21.80	3.86
	4	0.75	13.90	22.70	2.73
	5	0.71	13.30	22.00	1.98
	6	0.93	13.60	19.80	2.75
	7	1.57	13.40	21.90	4.60
	8	1.17	13.40	20.10	3.61
Year	1989				
Stove	Non-Cata	lytic-1			
		Burn	Test		
		Rate	Load	% M	Emissions
Lab A	Run	(Kg/h)	Wt. (lb)	DRY	(g/h)
5G	1	1.53	11.50	21.98	15.80
	2	0.89	9.80	22.38	10.95
	3	1.18	10.00	20.33	9.70
	4	0.58	10.40	20.56	20.10
	5	1.83	10.00	20.83	6.60
	6	0.91	9.80	20.56	11.35
	7	0.62	9.70	20.44	18.00
	8	1.77	10.40	20.46	9.85
Lab A1	Run			DRY	
5H	1	1.53	11.50	21.98	16.10
	2	0.89	9.80	22.38	9.80
	3	1.18	10.00	20.33	9.35
	4	0.58	10.40	20.56	21.00
	5	1.83	10.00	20.83	9.85
	6	0.91	9.80	20.56	10.25
	7	0.62	9.70	20.44	17.25
	8	1.77	10.40	20.46	9.10
Lab B	Run			DRY	
5 G	1	0.80	10.90	21.63	22.18
	2	1.04	11.20	20.85	13.82

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	3	0.48	11.20	20.19	18.07
	4	0.98	11.40	21.98	14.19
	5	1.29	10.70	19.93	11.71
	6	1.58	11.40	23.48	13.69
	7	2.32	11.50	22.47	7.55
	8	2.06	11.60	23.05	7.46
Lab B1	Run			DRY	
5G	1	0.80	10.90	21.63	22.05
	2	1.04	11.20	20.85	12.04
	3	0.48	11.20	20.19	18.39
	4	0.98	11.40	21.98	13.60
	5	1.29	10.70	19.93	10.93
	6	1.58	11.40	23.48	12.24
	7	2.32	11.50	22.47	6.83
	8	2.06	11.60	23.05	6.80
Lab C	Run			DRY	
5H	1	0.51	10.90	22.71	21.08
	2	0.79	10.90	22.15	14.41
	3	1.03	11.50	21.83	15.55
	4	0.92	11.50	21.66	16.28
	5	1.33	11.20	25.13	12.69
	6	1.47	11.20	21.88	15.05
	7	2.50	11.10	21.13	8.28
	8	2.60	11.60	21.73	8.54
Lab D	Run			DRY	
5G	1	1.53	10.90	21.88	17.75
	2	1.39	11.10	23.82	11.20
	3	1.95	11.40	23.34	14.02
	4	0.64	11.30	21.28	23.31
	5	1.03	11.30	21.74	19.69
	6	0.79	11.40	21.16	18.38
	7	2.02	10.50	21.75	4.93
	8	1.24	10.40	23.17	20.14
Lab E	Run			DRY	
5H	1	INVALID			
	2	1.7112	11.5	18.223	5.413

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	3	0.8368	11.5	18.534	15.492
	4	1.3117	11.5	18.351	19.298
	5	1.8494	11.6	18.066	4.558
	6	1.1465	11.3	18.066	20.368
	7	1.1703	10.5	18.172	11.303
	8	0.8284	11.5	18.027	22.939
	9	1.9069	9.7	17.012	8.424
Year	1990				
Stove	Non-Catal	ytic-2			
		Burn	Test		
		Rate	Load	% M	Emissions
Lab A	Run	(Kg/h)	Wt. (lb)	DRY	(g/h)
5H	1	1.70	17.69	21.49	3.07
	2	1.54	16.84	20.25	2.71
	3	1.02	17.36	21.00	5.68
	4	0.63	18.35	22.48	24.09
	5	4.39	19.03	23.51	8.92
	6	1.10	17.50	21.21	4.91
	7	4.84	18.58	22.82	11.23
	8	0.78	18.01	21.97	2.97
Lab B	Run			DRY	
5G	1	1.91	10.40	22.34	17.40
	2	0.64	9.50	22.33	8.80
	3	1.29	9.50	22.81	7.82
	4	1.09	10.00	22.33	5.04
	5	3.14	9.90	22.60	12.47
	6	0.99	9.60	23.48	7.82
	7	3.05	9.50	22.77	11.98
	8	0.74	10.70	21.60	38.04
Lab C	Run			DRY	
5G	1	2.18	10.40	22.63	13.36
	2	0.67	9.90	20.37	5.14
	3	3.49	10.80	21.95	14.89
	4	1.24	10.30	22.00	2.64
	5	1.24	10.40	21.23	2.63
	6	2.26	10.60	21.68	6.27
	7	1.28	9.80	22.23	5.66
	8	0.82	9.50	21.23	5.52

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Lab D	Run			DRY	
5G3	1	4.375	9.36	21.33	10.26
	2	0.708	10.41	20.59	6.28
	3	0.639	10.93	19.89	7.24
	4	1.675	9.64	20.42	6.90
	5	1.665	10.45	20.42	9.58
	6	1.478	10.65	21.25	6.90
	7	1.387	10.34	21.65	7.50
	8	4.147	10.69	23.23	9.73
Year	1993				
Stove	Non-Catal	ytic-3			
		Burn	Test		
	_	Rate	Load	% M	Emissions
Lab A	Run	(Kg/h)	Wt. (lb)	WET	(g/h)
5H	1	0.83	10.10	18.06	10.98
	2	3.23	10.10	18.06	13.02
	3	1.22	10.40	18.41	3.34
	4	1.41	10.50	18.39	1.62
	5	1.74	10.60	18.01	2.32
	6	3.20	10.00	17.69	8.20
	7	1.14	10.20	17.93	2.90
	8	0.88	10.20	17.56	6.30
Lab B	Run			DRY	
5G	1	3.75	14.40	23.65	9.31
	2	0.67	10.20	23.20	7.13
	3	2.91	10.30	22.57	5.12
	4	0.81	11.60	22.73	7.79
	5	1.20	10.90	22.48	3.72
	6	1.20	9.90	23.20	5.16
	7	1.36	12.30	21.87	1.54
	8	1.29	12.50	22.23	2.01
Lab C	Run			WET	
5G	1	0.94	9.56	18.82	7.02
30	2	0.95	9.64	18.91	7.20
	3	1.07	10.17	19.10	5.79
	4	1.18	9.89	19.61	5.28
	5	1.39	10.04	18.81	5.35
	6	1.47	10.17	17.98	1.66
	J	1.4/	10.17	17,50	1.00

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	7	5.18	9.99	18.17	28.47
	8	4.76	10.38	19.13	11.89
Year	1995				
Stove	Non-Catal	ytic-3			
		Burn	Test		
		Rate	Load	% M	Emissions
Lab A	Run	(Kg/h)	Wt. (lb)	WET	(g/h)
5G	1	1.24	10.10	16.76	3.70
	2	1.07	10.20	18.82	12.00
	3	1.70	10.20	18.52	2.85
	4	4.08	11.10	19.03	11.26
	5	1.20	11.40	19.76	19.90
	6	4.73	11.60	17.57	14.44
	7	1.51	11.50	16.06	8.29
	8	0.95	10.50	18.69	11.00
Lab B	Run			DRY	
5G	1	0.70	10.29	21.90	14.46
	2	0.74	9.66	19.80	10.64
	3	0.87	10.83	19.90	7.49
	4	1.12	9.55	18.50	6.17
	5	1.38	9.80	19.10	4.26
	6	1.40	10.70	20.10	1.26
	7				
	8				
Year	1996				
Stove	Non-Cata	lytic-3			
		Burn	Test		
1 - 1 - 0	D	Rate	Load	% M	Emissions
Lab A	Run	(Kg/h)	Wt. (lb)	WET	(g/h)
5G	1	1.24	9.70	17.79	4.12
	2	0.94	9.30	18.04	9.45
	3	3.10	9.80	18.56	4.02
	4	1.59	10.30	17.96	2.84
	5	0.93	9.90	17.56	10.19
	6	3.70	9.80	16.81	11.27

7

8

1.36

1.13

10.20

10.60

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16.84

17.79

3.22

8.07

1997 Year Stove Non-Catalytic-3 Burn Test Rate Load % M **Emissions** Lab A WET (g/h) Run (Kg/h) Wt. (lb) 5G 1 0.94 10.00 17.48 3.59 2 3.29 10.70 17.46 3.01 3 1.42 10.10 17.65 4.96 4 0.98 10.70 17.76 6.62 5 1.13 10.60 17.84 4.70 6 1.16 10.80 17.51 3.58 7 3.17 10.30 14.51 6.66 8 1.29 11.00 17.76 3.72 DRY Lab B Run 5H 1 0.85 10.70 16.96 12.56 2 0.79 10.20 17.62 3.78 3 3.27 10.40 19.02 8.85 4 17.75 1.22 10.60 0.82 5 3.24 10.80 17.32 5.21 6 1.32 10.50 16.96 1.18 7 1.46 11.20 18.45 2.45 8 1.06 11.10 17.75 3.54 1999 Year Non-Catalytic-3 Stove Burn Test Rate Load % M **Emissions** Lab A Run (Kg/h) WET (g/h) Wt. (lb) 5H 1.24 1 10.80 17.84 2.50 2 4.18 11.30 19.39 5.53 3 1.44 10.00 17.89 3.09 4 10.20 4.49 19.10 4.78 5 1.20 10.00 18.23 0.87 6 19.02 1.61 10.20 0.96 7 0.91 9.80 16.41 5.24 8 0.98 10.00 17.27 1.28

Lab B

5G

Run

1

1.16

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10.60

DRY

23.87

6.06

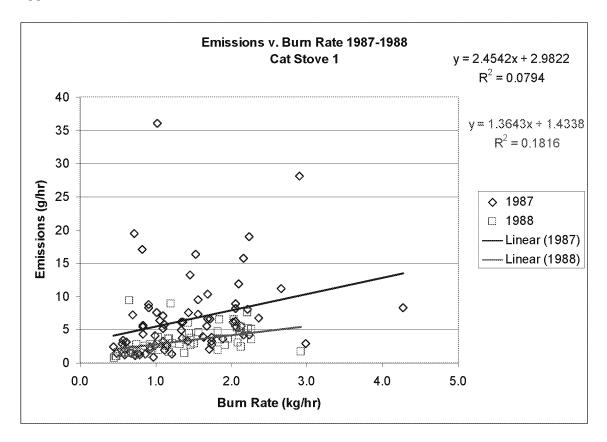
	2	3.80	10.40	24.25	9.26
	3	1.62	10.30	23.71	4.11
	4	1.10	10.50	23.14	6.74
	5	0.99	10.20	21.31	9.16
	6	4.57	10.20	21.55	15.99
	7	1.32	10.60	21.68	3.34
	8	0.97	9.70	23.41	8.72
Lab C	Run			WET	
5G	1	0.966	10.50	17.18	2.42
	2	3.836	9.30	17.44	5.27
	3	1.150	9.50	17.69	3.76
	4	4.672	9.60	17.75	17.97
	5	0.617	9.70	17.70	4.35
	6	0.814	9.60	17.41	12.08
	7	1.262	9.40	17.63	2.45
	8	1.268	9.70	17.37	3.32
Year	2000				
Stove	Non-Cataly	ytic-3			
Stove	Non-Cataly	ytic-3 Burn	Test		
		Burn Rate	Load	% M	Emissions
Lab A	Run	Burn Rate (Kg/h)	Load Wt. (lb)	DRY	(g/h)
	Run 1	Burn Rate (Kg/h) 1.26	Load Wt. (lb) 10.08	DRY 22.51	(g/h) 6.10
Lab A	Run 1 2	Burn Rate (Kg/h) 1.26 0.91	Load Wt. (lb) 10.08 10.16	DRY 22.51 20.97	(g/h) 6.10 5.62
Lab A	Run 1 2 3	Burn Rate (Kg/h) 1.26 0.91 0.79	Load Wt. (lb) 10.08 10.16 10.04	DRY 22.51 20.97 21.65	(g/h) 6.10 5.62 7.42
Lab A	Run 1 2 3 4	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17	Load Wt. (lb) 10.08 10.16 10.04 10.26	DRY 22.51 20.97 21.65 20.36	(g/h) 6.10 5.62 7.42 5.34
Lab A	Run 1 2 3 4 5	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17	Load Wt. (lb) 10.08 10.16 10.04 10.26 10.19	22.51 20.97 21.65 20.36 23.05	(g/h) 6.10 5.62 7.42 5.34 4.72
Lab A	Run 1 2 3 4 5 6	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17 1.11	Load Wt. (lb) 10.08 10.16 10.04 10.26 10.19 10.19	22.51 20.97 21.65 20.36 23.05 22.47	(g/h) 6.10 5.62 7.42 5.34 4.72 1.74
Lab A	Run 1 2 3 4 5 6 7	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17 1.11 1.43 4.71	Load Wt. (lb) 10.08 10.16 10.04 10.26 10.19 10.19	22.51 20.97 21.65 20.36 23.05 22.47 22.37	(g/h) 6.10 5.62 7.42 5.34 4.72 1.74 11.40
Lab A	Run 1 2 3 4 5 6	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17 1.11	Load Wt. (lb) 10.08 10.16 10.04 10.26 10.19 10.19	22.51 20.97 21.65 20.36 23.05 22.47	(g/h) 6.10 5.62 7.42 5.34 4.72 1.74
Lab A	Run 1 2 3 4 5 6 7	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17 1.11 1.43 4.71	Load Wt. (lb) 10.08 10.16 10.04 10.26 10.19 10.19	22.51 20.97 21.65 20.36 23.05 22.47 22.37	(g/h) 6.10 5.62 7.42 5.34 4.72 1.74 11.40
Lab A 5G	Run 1 2 3 4 5 6 7 8	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17 1.11 1.43 4.71	Load Wt. (lb) 10.08 10.16 10.04 10.26 10.19 10.19	22.51 20.97 21.65 20.36 23.05 22.47 22.37 23.68	(g/h) 6.10 5.62 7.42 5.34 4.72 1.74 11.40
Lab A 5G	Run 1 2 3 4 5 6 7 8 Run	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17 1.11 1.43 4.71 7.09	Load Wt. (lb) 10.08 10.16 10.04 10.26 10.19 10.19 10.16 10.31	22.51 20.97 21.65 20.36 23.05 22.47 22.37 23.68	(g/h) 6.10 5.62 7.42 5.34 4.72 1.74 11.40 11.06
Lab A 5G	Run 1 2 3 4 5 6 7 8 8 Run 1	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17 1.11 1.43 4.71 7.09	Load Wt. (lb) 10.08 10.16 10.04 10.26 10.19 10.19 10.16 10.31	22.51 20.97 21.65 20.36 23.05 22.47 22.37 23.68 DRY 20.20	(g/h) 6.10 5.62 7.42 5.34 4.72 1.74 11.40 11.06
Lab A 5G	Run 1 2 3 4 5 6 7 8 Run 1 2	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17 1.11 1.43 4.71 7.09	Load Wt. (lb) 10.08 10.16 10.04 10.26 10.19 10.16 10.31	22.51 20.97 21.65 20.36 23.05 22.47 22.37 23.68 DRY 20.20 19.70	(g/h) 6.10 5.62 7.42 5.34 4.72 1.74 11.40 11.06
Lab A 5G	Run 1 2 3 4 5 6 7 8 8 Run 1 2 3 3	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17 1.11 1.43 4.71 7.09	Load Wt. (lb) 10.08 10.16 10.04 10.26 10.19 10.16 10.31	22.51 20.97 21.65 20.36 23.05 22.47 22.37 23.68 DRY 20.20 19.70 20.80	(g/h) 6.10 5.62 7.42 5.34 4.72 1.74 11.40 11.06
Lab A 5G	Run 1 2 3 4 5 6 7 8 Run 1 2 3 4	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17 1.11 1.43 4.71 7.09 1.287 0.699 0.983 3.967	Load Wt. (lb) 10.08 10.16 10.04 10.26 10.19 10.16 10.31 10.88 10.33 11.05 10.76	DRY 22.51 20.97 21.65 20.36 23.05 22.47 22.37 23.68 DRY 20.20 19.70 20.80 21.20	(g/h) 6.10 5.62 7.42 5.34 4.72 1.74 11.40 11.06
Lab A 5G	Run 1 2 3 4 5 6 7 8 8 Run 1 2 3 4 5 5	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17 1.11 1.43 4.71 7.09 1.287 0.699 0.983 3.967 0.955	Load Wt. (lb) 10.08 10.16 10.04 10.26 10.19 10.16 10.31 10.88 10.33 11.05 10.76 9.78	DRY 22.51 20.97 21.65 20.36 23.05 22.47 22.37 23.68 DRY 20.20 19.70 20.80 21.20 20.80	(g/h) 6.10 5.62 7.42 5.34 4.72 1.74 11.40 11.06 4.64 59.60 7.09 19.82 7.54
Lab A 5G	Run 1 2 3 4 5 6 7 8 Run 1 2 3 4 5 6 6	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17 1.11 1.43 4.71 7.09 1.287 0.699 0.983 3.967 0.955 1.428	Load Wt. (lb) 10.08 10.16 10.04 10.26 10.19 10.16 10.31 10.88 10.33 11.05 10.76 9.78 9.62	DRY 22.51 20.97 21.65 20.36 23.05 22.47 22.37 23.68 DRY 20.20 19.70 20.80 21.20 20.80 21.30	(g/h) 6.10 5.62 7.42 5.34 4.72 1.74 11.40 11.06 4.64 59.60 7.09 19.82 7.54 4.74
Lab A 5G	Run 1 2 3 4 5 6 7 8 8 Run 1 2 3 4 5 5	Burn Rate (Kg/h) 1.26 0.91 0.79 1.17 1.11 1.43 4.71 7.09 1.287 0.699 0.983 3.967 0.955	Load Wt. (lb) 10.08 10.16 10.04 10.26 10.19 10.16 10.31 10.88 10.33 11.05 10.76 9.78	DRY 22.51 20.97 21.65 20.36 23.05 22.47 22.37 23.68 DRY 20.20 19.70 20.80 21.20 20.80	(g/h) 6.10 5.62 7.42 5.34 4.72 1.74 11.40 11.06 4.64 59.60 7.09 19.82 7.54

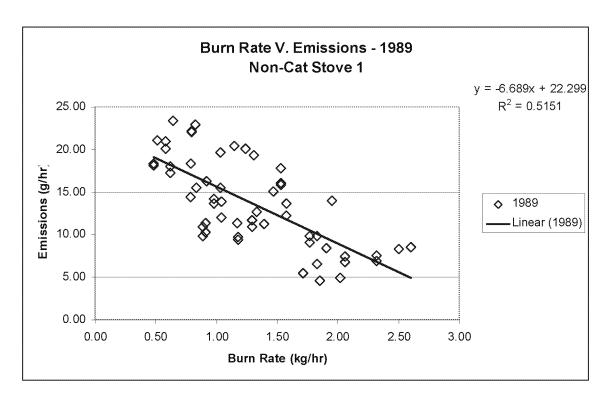
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Year 2005 Stove Non-Catalytic-4

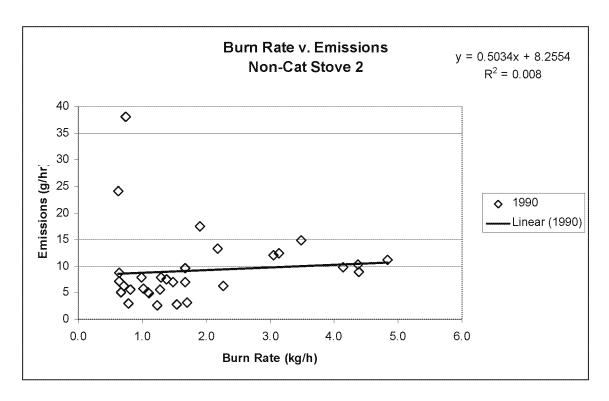
JLUVE	Non-Catalytic-4				
		Burn	Test		
		Rate	Load	% M	Emissions
Lab A	Run	(Kg/h)	Wt. (lb)	DRY	(g/h)
5G	1	2.54	9.10	22.00	6.30
	2	1.33	8.20	19.50	11.30
	3	0.54	9.00	19.20	24.30
	4	0.95	9.20	19.40	9.50
	5	0.91	8.40	20.10	10.80
	6	0.70	8.40	21.50	13.20
	7	1.36	8.00	23.20	5.60
	8	2.57	9.10	20.30	7.40
Lab B	Run			DRY	
5G	1	INVALID	8.89	21.79	
	2	0.91	8.34	20.85	23.82
	3	1.55	8.23	20.76	14.59
	4	3.20	8.13	21.51	6.10
	5	1.31	8.05	19.74	9.94
	6	0.55	8.05	20.44	19.55
	7	1.23	8.22	20.87	10.04
	8	2.83	8.23	20.14	7.93

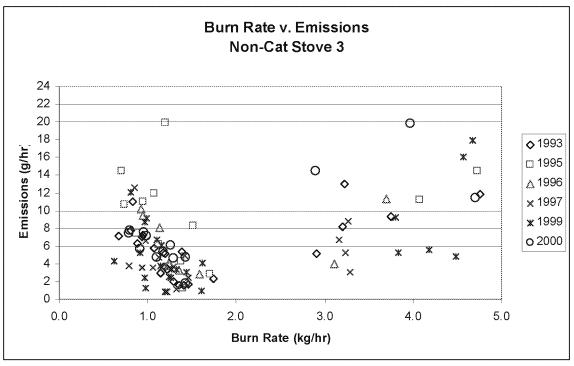
Appendix B – Burn Rate versus Emissions Rate Charts

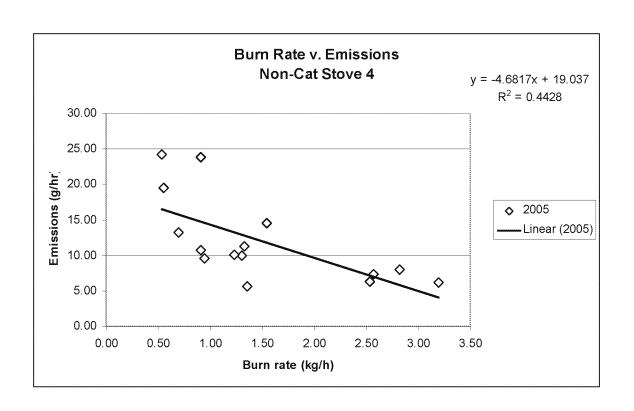




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Appendix C - Measurement Uncertainty Analyses for EPA Wood Heater Test Methods

Every numerical physical measurement process is subject to a quantifiable level of uncertainty. This uncertainty is determined in the process of calibrating the measurement instrument. Therefore, the measurement uncertainty for each direct measurement required in a test method can be determined or estimated. When multiple measurements of specific quantities are combined into a final numerical measurement result, the combined uncertainty can be calculated by application of well defined and accepted procedures. These procedures are outlined fully in ISO "Guide to the Expression of Uncertainty in Measurement."

The ISO Guide defines two types of evaluation of measurement uncertainty. Type A is defined as "method of evaluation of uncertainty by statistical analysis of series of observations." This is a <u>quantitative</u> evaluation. Type B is defined as a "method of evaluation of uncertainty by means other than the statistical analysis of series of observations." This describes a more <u>qualitative</u> evaluation. The ISO Guide further elaborates that a "Type B evaluation of standard uncertainty is usually based on scientific judgment using all the relevant information available, which may include:

- previous measurement data,
- experience with, or general knowledge of, the behavior and property of relevant materials and instruments.
- manufacturer's specifications,
- data provided in calibration and other reports, and
- uncertainties assigned to reference data taken from handbooks."

Since there is no such thing as a wood heater test method calibration standard – that is, a wood heater with a "known" emissions rate – the uncertainty calculations and estimates that follow below are based on a hypothetical emissions value and evaluate only the particulate sampling method uncertainty relative to the hypothetical value. Variability in measured emissions due to the combination of the fueling and operation method and general wood burning variability are not components of measurement uncertainty. Measurement uncertainty quantifies only the potential difference between the actual measured result and the "true" value for one specific test run. Variation in results between different test runs includes both the effects of measurement uncertainty and many other variables that influence the actual performance of the product.

An ISO Guide Type A measurement uncertainty analysis is included in this appendix for Method 5G-3 as an example of the way measurement uncertainty is determined using the ISO Guide procedures. Detailed measurement uncertainty calculations are not included for the other methods. However, estimates of the measurement uncertainties for the other 5G methods along with the underlying assumptions used to achieve those estimates are provided. In the case of Method 5H, an estimate of overall method measurement uncertainty ¹⁰ is provided. The estimate is based on both ISO Guide Type A and Type B evaluations.

¹⁰ This estimate includes both measurement uncertainties that can be analyzed using ISO Guide Type A evaluations and other uncertainties that implicate Type B analyses. The use in this method of one approach for determining stack gas flow rate for setting the proportional sampling rate and another procedure for

EPA Methods 5G-3, 5G-1 and 5G-2

Analysis of the measurement uncertainty for the total particulate emissions in these dilution tunnel test methods requires combining the uncertainty of the following individual measurements.

- Dilution tunnel volumetric flow rate.
- Sampling system volumetric flow rate.
- Filter and sample probe particulate gravimetric catch.

Component Measurement Uncertainties:

- Dilution Tunnel Flow Rate—The dilution tunnel flow is measured by a standard Pitot tube and a differential pressure gauge. The direct measurement is of flow velocity at the operating temperature and pressure. Pitot tube measurements are considered a primary reference method and therefore the primary component of uncertainty in the velocity measurement is that of the differential pressure gauge. Conversion of the velocity measurement to flow rate at standard temperature and pressure conditions requires additional measurements of the tunnel cross sectional area, the temperature and the absolute pressure. An analysis of the overall uncertainty of the tunnel flow rate indicates that the measurements of tunnel cross-sectional area, temperature and pressure have a relatively minor affect. The procedure in this standard has been specified such that the overall uncertainty of this parameter is about ±2 % of the flow rate.
- Sampling Volumetric Flow Rate—The equipment available to measure the sample flow rate has a high precision and can be calibrated such that the measurement uncertainty is ± 1 % or better of the actual flow rate. For the purposes of this appendix, a ± 1 % uncertainty will be assumed.
- Filter and Probe Particulate Catch—The analytical balance specified in the method has a resolution of ±0.0001g (0.1 mg). For the purposes of measurement uncertainty analysis, we will conservatively assume that the balance resolution equals the measurement uncertainty.

Detailed Measurement Uncertainty (MU) Analysis for Method 5G-3

Weighing Uncertainty

For Method 5G-3, a minimum total of four weighings is needed to determine the net particulate catch (filters and o-rings weighed together and probe weighed separately, before and after the test run). Since each weighing is subject to the same uncertainty, the overall uncertainty of the weighing is:

$$MU_{weighing} = \sqrt{(MU_{Balance})^2 \cdot X}$$

determining stack gas flow rate for the calculation of total emissions is the principle source of measurement error that is assessed using the Type B Analysis. We note, however, that a rigorous analysis of the broader uncertainty implications of this and other Method 5H procedures is outside the scope of this paper.

Where:

 $\mathbf{MU}_{Balance}$ = Measurement uncertainty of the analytical balance (0.1 mg), and X = The total number of weight values (4) actually used to calculate emissions. Note: This does not include weight measurements made during pretest or post-test drying, only the final pretest and post-test weights.

$$MU_{weiighing} = \sqrt{0.1^2 \cdot 4} = 0.20$$

For a process that involves two pretest and two post-test weighings, this uncertainty is ± 0.20 mg.

An additional component of the filter catch weight uncertainty is the potential for incomplete recovery of the filter material. There is no objective data to determine the magnitude of this factor, but laboratories familiar with the procedures report that they believe it to be less than 0.1 mg. Combining an additional ± 0.1 mg with the weighing uncertainty results in an overall weighing uncertainty of ± 0.22 mg (0.00022 g).

Combined Measurement Uncertainty

Combined uncertainties are calculated by taking the square root of the sum of squares of the component uncertainties multiplied by a "sensitivity coefficient". The sensitivity coefficient is the partial derivative of the function used to calculate the result with respect to the specific measurement parameter. The general formula (law of propagation of uncertainty) is:

$$uY = \sqrt{((\delta Y/\delta x_1) \times u_1)^2 + ... + ((\delta Y/\delta x_n) \times u_n)^2}$$

Where:

 $\delta Y/\delta x_i$ = Partial derivative of the combining formula with respect to individual measurement x_i , and

 u_i = the uncertainty associated with that measurement.

The formula to calculate total particulate emissions is:

 $E_T = c_s Q_{std} \theta$

Where:

 c_s = sample filter catch/(sample flow rate x test duration), g/dscf,

 Q_{std} = average dilution tunnel flow rate, dscf/min, and

 θ = sampling time, minutes.

For the sake of example the following values will be used in an MU analysis of E_T .

Measurement	Measured Value	MU	Units
Sample Filter Catch	0.0210	±0.00022	g
(F_c)			
Sample Flow Rate	0.250	±0.0025	dscfm
(Qsample)			
Sampling Duration	180	±0.1	minutes
θ			
Tunnel Flow Rate	150	±3	dscfm
Q_{std}			

(1) Calculate the MU of c_s :

$$c_{s} = F_{c}/(Q_{sample} \theta) = 0.0210/(0.25 \times 180) = 0.000467 \qquad g/dscf$$

$$\frac{\delta c_{s}}{\delta F_{c}} = \frac{1}{Q_{sample}} \bullet \theta = \frac{1}{0.25 \bullet 180} = 0.0222$$

$$\frac{\delta c_{s}}{\delta Q_{Sample}} = \frac{-F_{c}}{Q^{2}_{sample}} \bullet \theta = \frac{-0.021}{0.25^{2} \bullet 180} = -0.001867$$

$$\frac{\delta c_{s}}{\delta \theta} = \frac{-F_{c}}{Q_{sample}} \bullet \theta^{2} = \frac{-0.0210}{0.25 \bullet 180^{2}} = -0.000003$$

$$MUc_{s} = \sqrt{(0.00022 \cdot 0.0222)^{2} + (0.0025 \cdot -0.001867)^{2} + (0.1 \cdot -0.000003)^{2}}$$

$$MUc_s = 0.000007 \text{ g/dscf}$$

Thus, c_s would be 0.467 mg/dscf \pm 0.007 mg/dscf at a 95 % confidence level.

(2) Calculate E_T and MU_{ET}

$$E_T = c_s O_{std} \theta = .000467 \times 150 \times 180 = 12.60 g$$

$$\frac{\delta E_T}{\delta c_s} = Q_{std} \bullet \theta = 150 \bullet 180 = 27,000$$

$$\frac{\delta E_T}{\delta Q_{std}} = c_s \bullet \theta = 0.000467 \bullet 180 = 0.084060$$

$$\frac{\delta E_T}{\delta \theta} = c_s \bullet Q_{std} = 0.000467 \bullet 150 = 0.070050$$

$$MU_{ET} = \sqrt{(27,000 \bullet 0.000007)^2 + (0.084060 \bullet 3)^2 + (0.070050 \bullet 0.1)^2} = 0.315 \text{ g}$$

Thus the result in this example would be:

$$ET = 12.60 \text{ g} \pm 0.32 \text{ g}$$
 at a 95 % confidence level or stated as MU % = ± 2.5 %.

Conclusion—This example, which is representative of the measurement method as it is currently applied to woodstoves under the EPA NSPS, indicates that the uncertainty related to the dilution tunnel flow rate measurement and filter catch weights are the primary components of the overall uncertainty of the result. Tunnel flow rates may be much higher than necessary to capture all emissions. This can influence the uncertainty of the test method. For example, increasing the tunnel flow rate from 150 to 600 scfm in the above example increases the MU of the result to ± 0.8 g or about ± 6.5 % of the measured emissions. Therefore, keeping tunnel flow rates near the minimum necessary to reliably capture the exhaust stream, while keeping the tunnel velocity at a level that can be accurately measured during tests will minimize the uncertainty of the measurement.

Measurement Uncertainty Estimate for EPA Method 5G-1

The major difference between EPA Method 5G-3 and 5G-1 is that 5G-1 uses solvent recovery to determine the particulate weight collected in the probe and front half of the front filter holder. The requirement to weigh a solvent blank results in at least one additional weighing before and after the test when compared to Method 5G-3. It is also common practice to weigh the 100mm filters separately which also results in another weighing before and after the test. These additional weighings add to uncertainty. There is also the likelihood of more substantial fiber loss while recovering adhered filter fibers from the filter gaskets with the 100 mm filters and the possibility of some loss of particulate from the probe during the solvent recovery process.

If the same balance uncertainty of 0.1 mg for six total weighings is combined with a conservative estimate of 0.1% of total catch for the combination of fiber loss from the gaskets and particulate loss during solvent recovery is used, the resultant uncertainty for the filter and probe catch weight is significantly higher than with Method 5G-3.

However, the sample flow rate, and therefore the probe and filter catch, with Method 5G-1 is typically about twice as high as Method 5G-3 and this difference offsets much of the impact of the increase in weighing uncertainty on the overall method measurement uncertainty. Following the same analysis track as shown for Method 5G-3 above, the Method 5G-1 MU is about 10 - 15% higher than the MU for 5G-3. This MU% range of ± 2.7 to 3% is still quite good.

Measurement Uncertainty Estimate for EPA Method 5G-2

Using the same logic applied to the Method 5G-1 measurement uncertainty estimate, the primary difference between 5G-1 and 5G-2 is in the number of filter train components subjected to solvent recovery and the total number of weighings before and after each test run. After consultation with a highly experienced 5G-2/5H test technician, it was determined that there are typically seven individual weight measurements before and after each test run. These include four beakers used for solvent recovery, a beaker for the solvent blank and the front and rear filters. These additional weighings contribute to additional uncertainty.

It would not be unreasonable to assume that some additional fraction of particulate matter could be lost during solvent recovery due to all the additional components that are involved in the recovery. But, even if we continue to assume that a very conservative 0.1% of the total particulate catch is lost from filter gaskets and solvent recovery, the weighing uncertainty increases by about 40% over Method 5G-1. However, since the total catch is expected to be somewhat higher with 5G-2, the larger catch mitigates some of the impact of the increased weighing uncertainty on the overall method measurement uncertainty. We would expect that the measurement uncertainty for Method 5G-2 is in the range of 15 -20% higher than Method 5G-1. The MU% is in the range of $\pm 3 - 3.5\%$ which is also quite good.

Overall Measurement Uncertainty Estimate for EPA Method 5H

The same particulate sampling equipment is used for both Method 5H and Method 5G-2, but the methods are not close to the same in terms of overall measurement uncertainty. If we first examine the sampling protocols for the two methods, we find there are notable differences. These include:

- The particulate concentrations in the 5H sampling stream are much higher than 5G-2 (undiluted stack gas in 5H versus diluted gas in the tunnel with 5G-2).
- Lower sampling rates are typically used for 5H to prevent filter plugging (0.1 0.3 cfm) for 5H and 0.5 cfm or higher for 5G-2).
- Total particulate catches are higher (by an order of magnitude or more) for 5H compared to 5G-2.

However, despite these differences, the particulate catch measurement uncertainty for Method 5H is not appreciably higher than that for 5G-2. This is because the impacts of the differences noted above cut to some extent in different directions, e.g., the added uncertainty contributed by the low sampling rate is somewhat mitigated by the much higher total particulate catch. Since the measurement uncertainty in the sample flow rate

and the total particulate catch parameters are reasonably quantifiable, we would estimate their combined contribution to the overall measurement uncertainty of Method 5H using an ISO Guide Type A analysis to be no more than a few percentage points. At this level, the sampling-related measurement uncertainty is only a secondary contributor to the overall measurement uncertainty of Method 5H.

The primary contributor to the large increase in overall measurement uncertainty associated with Method 5H when compared to Method 5G-2 (or the other dilution tunnel methods) is the determination of the stack gas flow rate over the course of the test. The associated complexities with this issue make quantitative assessments of the contribution to measurement uncertainty unworkable using ISO Guide Type A evaluations. The more qualitative Type B evaluation is appropriate in this case.

Factors Contributing to Stack Flow Uncertainty

The stack flow must be determined for purposes of knowing where to set the sample flow rate in order to maintain sample flow proportionality over the test run. The procedure specified in Method 5H is a tracer gas method. This method has been generally replaced by adding a dilution tunnel to the system and determining stack flow using the ratio of tunnel CO₂ to stack CO₂ multiplied by the easily measured tunnel flow. At each sampling interval, the sample flow is adjusted based on this stack flow determination. There is additional uncertainty in this procedure if a single gas analyzer is used to determine both the stack and tunnel CO₂ concentrations since the accuracy of these instruments is generally 1% of full scale and the tunnel CO₂ readings are quite low. Some of this can be mitigated by using two analyzers or multi-scale analyzers where the accuracy can better match the concentrations.

The 5H procedures then go on to calculate stack gas flow for the purpose of determining emissions using a mass balance algorithm where carbon from the fuel is balanced against the carbon measured in the stack (CO₂ and CO) and an assumed hydrocarbon value to make the balance work. The stack flow calculated by this means often results in very different incremental stack flow values than the tracer gas methods. The impact of this difference is that the proportionality of the sample gas flow rate to the stack gas flow rate can be much different between the two procedures. Additionally, there is a wider range in variation from proportional sample flow rate allowed in this method than for the dilution tunnel methods. The allowable range is a necessity due to the fact that frequent stack gas flow calculations and sample flow rate adjustments are needed due to the instability in the actual stack gas flow. The impact of proportionality ranges is hard to asses but contribution to method uncertainty is definitely real. Finally, the total stack gas flow over the entire test run is also impacted by the mass balance procedure and this obviously directly impacts the particulate emission determination. The uncertainty of the carbon balance stack flow rate calculation is impacted by the unknown uncertainties of the fuel carbon content, the assumed hydrocarbon concentration and the measurement uncertainty of stack CO and CO₂ measurements.

Overall measurement uncertainty for 5H is commonly estimated in the $\pm 20 - 30\%$ range by those with considerable experience with the method. The increment of measurement uncertainty that can be analyzed using ISO Guide Type A procedures accounts for only a

few percentage points of this range. The remainder ($\sim 17-27\%$) can be supported by a qualitative (Type B) analysis using reasonable estimates of the measurement uncertainties associated with the stack flow procedures in Method 5H. This estimate corresponds to the magnitude of the typical difference between stack flow rates determined by the tracer gas and carbon balance procedures for an individual test run.

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- 3. Guide to the Expression of Uncertainty in Measurements, First Edition 1995, International Organization for Standards.
- 4. ASTM E177-2008 "Standard Practice for Use of the Terms Precision and Bias in ASTM Test Methods", ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959.
- ASTM E691-2009 "Standard Practice for Conducting an Interlaboratory Study to Determine the Precision of a Test Method", ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959.
- 6. CSA B415.1-2010 Performance Testing of Solid-Fuel-Burning Heating Appliances, CSA International, 5060 Spectrum Way, Suite 100, Mississauga, Ontario, Canada L4W 5N6, March, 2010.
- ASTM E2515 2007 "Standard Test Method for Determination of Particulate Matter Emissions Collected by a Dilution Tunnel", ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959.
- 8. ASTM E2618 2009 "Standard Test Method for Measurement of Particulate Emissions and Heating Efficiency of Outdoor Solid Fuel-Fired Hydronic Heating Appliances", ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959.
- 9. Mark's Standard Handbook for Mechanical Engineers, Ninth Edition, Eugene A Avallone, Theodore Baumeister III, McGraw Hill Book Co., 1987.

Commenter Name: Mary Sullivan Douglas

Commenter Affiliation: National Association of Clean Air Agencies (NACAA)

Document Control Number: EPA-HQ-OAR-2002-0058-3525-A1

Comment Excerpt Number: 11

Comment: The first step in any scientifically sound measurement process is to ensure that the procedures employed are sufficiently precise to determine meaningful differences. In response to questions from industry as to whether they should extend sampling periods to ensure more precise results, EPA advised them that they did not need to and that the agency would address it the final rulemaking. EPA defines the method detection limit as, "the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte." Where the "adjusted" average emissions of the top 12 percent is "near" the method detection level, EPA now proposes 10 to increase the calculated average so that the floor is not less than 300 percent of the detection level. To justify this increase EPA observes that when measurements are near the detection level the measurement uncertainty can be as high as (+/-) 40 percent, while such uncertainty is reduced to (+/-) 15 percent if the measured value is three times (300 percent) the detection level. However, since such measurement uncertainties are necessarily part of the overall variability determined in step one of EPA's procedure, there is no need or basis to substitute this arbitrary figure for the actual emission data that the statute requires be used. Additionally, it also makes no technical sense to introduce a known error of 300 percent in the MACT floor in order to avoid a possible error of 25 percent¹¹ in any individual measurement. This step constitutes yet one more bias in favor of allowing higher levels of HAP emissions. In this rulemaking EPA proposes to compound this error by "adjusting" the detection level reported by the laboratory in accordance with established protocols, even where EPA has no information that the detection levels reported by the laboratory are incorrect.

[Footnotes]

- (10) EPA employed this technique in the cement kiln New Source Performance Standard rule.
- (11) This is the difference between the potential error at the detection level and that at three times the detection level.

Response: See the response to comment EPA-HQ-OAR-2002-0058-3511-A1, excerpt 14.

We disagree with the commenter assertion that EPA, knowing many results would be at or below detection limits if it only required sample periods of one hour per run, responded to industry that the sources need not extend sample periods to ensure more precise results. In fact, enclosure 1 to the ICR letter requesting testing stated the methods and sampling times or volumes. For example, for sampling for metals, it was stated that EPA Method 29 be used and to collect a minimum volume of 4.0 cubic meters or have aminimum sample time of 4 hours per run. For dioxins/furans, enclosure 1 specified that EPA Method 23 be used and to collect a minimum volume of 2.5 cubic meters or have a minimum sample time of 4 hours per run.

Comment: Insetting the Boiler MACT standards, EPA has acknowledged that the emission limit should not be set below the capability of the applicable test method. However, EPA did not use the widely accepted definition of method detection limit, which is based on the capabilities of multiple commercial laboratories to analyze a sample and identify the presence of a chemical above the "noise" level. In its place, EPA coined a new term, "representative method detection limit" (RDL) to define a measurement method detection limit which is based on the laboratory detection limits reported for the tests with the lowest emissions. This erroneous methodology resulted in estimating D/F detection limits that are over 100 times lower than those regularly achieved by commercial laboratories, based on an analysis documented in previous comments by AF&PA and the National Council for Air and Stream Improvement (NCASI).20

The detection limit of an analytical method is commonly defined as the lowest concentration that can be distinguished from replicate blanks. The quantitation limit of a method is defined as the smallest concentration of the substance which can be measured with an acceptable level of uncertainty. Detection limits and quantitation limits are defined in a scientific, non-arbitrary manner in various widely-published peer-reviewed consensus guidelines 21 and EPA documents. Quantitation limits of test methods have great significance when measuring very low concentrations of pollutants. In practice, reported values below the method's quantitation limit should not be treated as real values.

The majority of a federal advisory committee on method detection and quantitation limits recommended that the quantitation limit of a test method should be based on the 95th percentile of what is being achieved by the commercial laboratories.22 Using this approach and rounding up the quantitation limit to a single digit, as EPA has done for floor setting, would result in a D/FTEQ quantitation limit of 0.2 ng/dscm based on analytical procedures alone. However, using the results of the ASME ReMAP study,23 which evaluated the precision of Method 23D/F stack testing measurements, a D/F TEQ quantitation limit of 0.27 ng/dscm is derived, which addresses the uncertainty of all of the test method components.

[Footnote 20: The National Council for Air and Stream Improvement is an independent, non-profit research institute that focuses on environmental topics of interest to the forest products industry. Established in 1943, NCASI is recognized as the leading source of reliable data on environmental issues affecting this industry.]

[Footnote 21: For example, Keith, L.H.et al., Principles of Environmental Analysis, *Anal.Chem.*1983,55,2210-2218.]

[Footnote 22: Report of the federal advisory committee on detection and quantitation approaches and uses in Clean Water Act Programs submitted to the Environmental Protection Agency (EPA). December 2007.]

[Footnote 23: Lanier, W.S. and Hendrix, C.D. Final Report--Reference Method Accuracy and Precision (ReMAP): Phase 1 Precision of Manual Stack Emission Measurements, ASME International, Washington, D.C. (2001).]

Response: For a response to the comment that Tesoro's boiler SG1102 test data are not representative of other non-continental liquid units due to low-load operation and site-specific fuel, please see comment EPA-HQ-OAR-2002-0058-3677-A2, excerpt 64. EPA has incorporated additional CO emissions testing data for the top performer into the recalculation of the 99% UPL for the subcategory. The variability between the previously reported and new emissions testing data resulted in an increased CO emission limitation for boilers designed to combust liquid fuel located in non-continental states or territories.

3C. MACT Floor Methodology: Non-Detect Values

Commenter Name: James Pew

Commenter Affiliation: Earthjustice, Clean Air Council, Partnership for Policy Integrity

Document Control Number: EPA-HQ-OAR-2002-0058-3511-A1

Comment Excerpt Number: 14

Comment: EPA exacerbated these problems with the approach to "non-detect" test results that it took in 2010. That approach continues to be unlawful and arbitrary for all the reasons given in the 2010 comments, which are incorporated by reference as if fully stated herein and reiterated with respect to the agency's 2011 final rule and reconsideration proposal. 2010 Comments at 22.

Now, EPA further exacerbates the other flaws in its variability analysis by arbitrarily assuming that individual sources' actual emission level are three times higher (i.e., worse) than an arbitrarily selected "method detectionlevel" (MDL) whenever their emissions fell below this level. That bizarre assumption follows a series of decisions that were unlawful, arbitrary, or both. First, EPA itself encouraged sources to report tests below method detection levels by advising them during the data collection phase that they did not need to use specific (or even adequate) criteria for testing and assuring them that the agency would address the absence of precise data in its rulemaking. As a result of EPA's stated willingness to accept data that were not precise, many sources used testing methods that were not precise and that yielded non-detect results at emission levels that could have been precisely measured had these sources chosen to use more precise testing methods – which are available and have been available for many years. Second, EPA now claims that any test below the mean detection level for all the alleged best sources in every subcategory – a level the agency now dubs the "representative detection level" or "RDL" – is a non-detect, whether that test really is a non-detect or not. Third, for all of the alleged nondetect results, EPA simply fills in a fictional replacement value equal to 300% of the RDL, unless that number would be lower than the floor. Nowhere does the agency offer any explanation for its apparent assumption that the 99% UPL it applies to each source's emission test results does not already fully account for that source's variability. Further EPA uses this 300% multiplier even though it does not and cannot provide any rational basis for assuming that all test results below the RDL actually reflect emission levels 300% higher than the RDL (even assuming arguendo that that they are higher than the RDL at all). All the agency offers on that subject is a conclusory assertion that multiplying the RDL by three approximates a 99% UPL for a data set of seven or more values, without either supporting that claim or explaining why it is even relevant. For these reasons alone, EPA's floors do not reflect the best sources' actual emission levels and are unlawful and arbitrary. Moreover, it is arbitrary - and amounts to a sabotage of the rule – for EPA to encourage sources to submit imprecise emissions data and then

use the resulting imprecision in the data it receives as an excuse to grossly inflate the emission standards.

Response: The commenter is incorrect that EPA's test method specifications during the ICR data collection encouraged the collection of data below the detection level. During the data collection request, we specified sampling times and/or volumes where appropriate. These times/volumes were calculated to provide reasonable assurance of detecting compounds that were present. EPA manual testing methods are designed to be conducted over an hour of sampling, but may be conducted with extended testing times to collect additional sample volume and provide for increased measurement sensitivity. Our guidance to ICR respondents for reporting pollutant emissions used to support floor development has been to require them to provide test-specific method detection limit (MDL) values in the reports. Also, in accordance with our guidance, source owners are to identify emissions data which were measured below the MDL and report those values as equal to the MDL determined for that test. This is done to provide for minimum pollutant concentrations when evaluating the emission floor, otherwise the measured concentration values as reported in the testing were used in calculating the floor.

Not all test reports that include instrumental test method data included test-specific MDL values. In cases where the report does not include test-specific MDL data measured with an instrumental test method, the test-specific MDL values were determined using the reported calibration span values. The EPA accounted for the effect of measurement imprecision in calculating a floor using a database that includes reported MDL data by first defining an MDL value that is representative of the data to be used in establishing the floor or emissions limit. This value is termed the representative method detection limit (RDL). The second step in the process was to calculate three times the RDL and compare that value to the calculated floor or emissions limit. The value of 3* RDL is necessary to gauge the performance test methods' level of quantitation, or that point at which the test method begins to return values within expected levels of confidence. The EPA recognizes that values between the method detection limit and the level of quantitation have more uncertainty than values at or above the level of quantitation, therefore we make this determination to provide a value to the floor setting decision process that describes the level of quantitation for the compliance determination method. If 3*RDL was less than the calculated floor or emissions limit calculated from the upper prediction limit (UPL), we concluded that measurement variability was adequately addressed and the calculated floor or emissions limit was not adjusted. If, on the other hand, the value equal to 3*RDL was greater than the floor value or emission limit, we concluded that the calculated floor or emission limit does not account entirely for measurement uncertainty, and the value equal to 3*RDL was substituted for the adjusted floor or emissions limit (i.e., increasing the floor to be equal to 3*RDL). This adjusted value ensures measurement uncertainty is adequately addressed in the floor or the emissions limit and that the test method used to determine compliance with the emission standard will be appropriate for quantitative determination of emissions concentrations at, and above, the level of the emission standard.

Originally, the floor was calculated by multiplying individual tests by a factor of three when the result was below the RDL. This methodology has been corrected in the final rule to the standard methodology described above.

See the memo from Peter Westlin to Docket EPA-HQ-OAR-2002-0058, April 10, 2012, for further information on floor determination for instrumental test methods.

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I. The EPA has Clear Authority to Adjust EISA's Volumes Using the Cellulosic and General Waiver Provisions

EPA correctly observes that the Proposed Rule comes at a time when "the market transitions from mild resistance to obstacles that are more difficult to overcome, particularly with regard to infrastructure and relative pricing for higher ethanol blends such as E15 and E85." EPA also recognizes that there are various "constraints associated with supplying renewable fuels to the vehicles and engines that can use them."² EPA correctly concludes that these constraints and obstacles prevent the Agency from imposing the renewable fuel volumes requirements in CAA section 211(o)(2)(B) and justify the use of EPA's waiver authorities to provide a measure of relief from those requirements. EPA must establish RFS volumetric standards based on available projections of the use of transportation fuel and the corresponding ability of the fuels market to utilize renewable fuel. It must also consider the infeasibility of blending ethanol into gasoline at levels above 10 percent by volume given that most vehicles on the road today cannot burn blends with higher volumetric percentages of ethanol. "Ethanol faces demand, distribution system, and regulatory challenges that make it difficult to increase its use as a motor fuel regardless of its The documented overall decline in gasoline consumption in the United States, particularly since the enactment of EISA, has exacerbated the problems presented by the E10 blendwall, making an exercise of EPA's waiver authority both appropriate and necessary. API provides a detailed discussion on the legal authority supporting EPA's exercise of its waiver authorities in the context of the Proposed Rule in Appendix A, infra.

A. EPA's Waiver Based on Its Cellulosic Waiver Authority Is Fully Justified and Permissible.

In its Proposed Rule, EPA properly notes that CAA section 211(o)(7)(D) "provides that if the projected volume of cellulosic biofuel production is less than the minimum applicable volume in the statute, EPA shall reduce the applicable volume of cellulosic biofuel required to the projected volume available." Next, EPA appropriately recognized that CAA section 2011(o)(7)(D) "also provides EPA with the authority to reduce the applicable volume of total renewable fuel and advanced biofuel in years where it reduces the applicable volume of cellulosic biofuel." The D.C. Circuit has confirmed EPA's broad discretion to reduce the statutory volumes using this waiver authority: "In the absence of any express or implied statutory directive to consider particular factors, EPA reasonably concluded that it enjoys broad discretion regarding whether and in what circumstances to reduce the advanced biofuel and total renewable fuel volumes under the cellulosic biofuel waiver provision." *Monroe v. EPA*, 750 F.3d 909, 915 (D.C. Cir. 2014).

The volume of cellulosic renewable fuel listed in EISA for 2017 is 5.5 billion gallons. Based on what it believes will be produced, EPA proposes a cellulosic volume of 312 million gallons for

¹ NPRM at 34790.

² NPRM at 34784.

³ Statement of Howard Gruenspecht Deputy Administrator Energy Information Administration U.S. Department of Energy Before the Committee on Energy and Commerce Subcommittee on Energy and Power United States House of Representatives. June 22, 2016.

⁴ NPRM at 34785.

2017. Thus, EPA is adjusting the cellulosic mandate listed in EISA by 5.188 billion gallons and can reduce the advanced and general renewable statutory volumes by up to 5.188 billion gallons each using the cellulosic waiver authority. ⁵ EPA has proposed to use this broad discretionary cellulosic waiver authority to reduce the statutory volume for advanced biofuel by 5.0 billion gallons. Similarly, EPA proposes to reduce the total renewable fuel mandate by an initial increment of 5.0 billion gallons for 2017 using the cellulosic waiver authority. ⁶

As discussed in the section below, EPA also proposes to use its general waiver authority to reduce further the applicable volume of total renewable fuel by an additional 0.2 billion gallons in 2017. We note that EPA actually needs to rely only on its general waiver authority to waive 12 million gallons of the general renewable volumes, as EPA is proposing to reduce the cellulosic volumes by 5.188 billion gallons, and can therefore use the cellulosic waiver authority to waive up to 5.188 billion gallons of the general renewable volume. We do not believe the statute limits EPA's authority to reduce the general renewable category to the full extent that the cellulosic category is reduced even if EPA does not reduce the advanced category to the same extent. EPA should, therefore, rely on its broad cellulosic waiver authority to the greatest extent possible. The general renewable fuel producers are essentially arguing that general renewable fuels should backfill the cellulosic space even though cellulosic renewable fuels would have provided a 60% GHG reduction and most general renewable fuels do not guarantee any GHG reduction at all due to EISA's grandfathering clause for general renewable fuels.

B. EPA's Waiver Based on Inadequate Domestic Supply Is Fully Justified and Permissible.

The Clean Air Act grants EPA two types of general waiver authorities with respect to the RFS program: EPA is authorized to waive statutory RFS requirements based on a determination that (1) "implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States," or "there is an inadequate domestic supply." The NPRM proposes to grant a general waiver for 0.2 billion gallons of total renewable fuel in 2017. EPA's grant of waivers based on a determination that there is an inadequate domestic supply is a permissible interpretation of the statute, and fully within EPA's authority.

C. EPA's Waiver Should Also Be Based On the Grounds That the Statutory Volumes Would Severely Harm the Economy.

EPA should also base its waivers on a determination that requiring compliance with the full statutory volumes would cause severe harm to the economy. Although the statute does not require EPA to waive the statutory renewable fuel requirements on both grounds, it is well settled that a regulation is arbitrary and capricious if it "entirely fail[s] to consider an important

⁵ As discussed in more depth below, EPA should set the cellulosic mandate at no more than 200 million gallons for 2017 and can therefore reduce the advanced and general renewable categories by 5.3 billion gallons solely using the cellulosic waiver authority.

⁶ NPRM at 34786.

⁷ *Id*.

⁸ 42 U.S.C. § 7545(o)(7)(A)(i).

⁹ *Id.* § 7545(o)(7)(A)(ii).

aspect of the problem." Whether RFS mandates will result in severe harm to the economy undoubtedly is an important aspect of the problem. Accordingly, EPA should consider *both* statutory grounds for granting a general waiver, and should determine that both support a general waiver for 2017.

In its comments on EPA's Proposed Rule for 2014-2016, API submitted extensive evidence, including a major economic study by NERA, that a general waiver is needed to avoid severe harm to the national economy. 11

In its response to comments document regarding the 2014-2016 RFS, EPA asserted that "it is unnecessary to evaluate concerns that implementation of the statutory applicable volumes would cause severe economic harm, since EPA is exercising its waiver authorities on other grounds to substantially reduce the statutory volumes." ¹²

API respectfully disagrees. Whether or not to exercise its waiver authority on the additional ground that lack of a general waiver will cause severe economic harm is an "important aspect of the problem" that EPA should consider.

Accordingly, API is resubmitting the 2015 NERA study as Appendix E, which was in turn an updated version of a 2012 NERA study API submitted in connection with EPA's initial 2014 proposed RFS rule. 13

EPA is not free to ignore this evidence on a critical issue. 14

II. Total Renewable Fuel Volume for 2017

EPA's methodology for setting volume requirements when its waiver authority has been exercised should be consistent and transparent for stakeholders. The statutory volumes are unattainable due in part to the limitations on the volume of ethanol that can be used. It is appropriate for EPA to determine a total ethanol volume, and adjust the standards downward to the extent marketplace realities limit expected ethanol use in 2017.

¹¹ See Comments of the Am. Fuel & Petrochem. Mfrs. and the Am. Petroleum Inst., Docket ID Nos. EPA-HQ-OAR-2015-0111, EPA-HQ-OAR-2013-0479 (July 27, 2015).

¹⁰ Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983).

¹² EPA, Renewable Fuel Standards for 2014, 2015 and 2016, and the Biomass-Based Volume for 2017: Response to Comments, at 116 (Nov. 2015) (EPA-420-R-15-024).

¹³ A more detailed discussion of the NERA studies and the severe economic harm analysis can be found in Appendix B at 1-4.

¹⁴ See Delaware Dep't of Natural Res. & Envtl. Control v. EPA, 785 F.3d 1, 15 (D.C. Cir. 2015) (EPA must respond to "relevant and significant" comments); Reytblatt v. U.S. Nuclear Regulatory Comm'n, 105 F.3d 715, 722 (D.C. Cir. 1997) (agencies "must respond in a reasoned manner to [comments] that raise significant problems").

A. Conventional Renewable Volume

Due to the limitations of the blendwall, EPA should set a total ethanol volume of not more than 9.7 percent of gasoline demand. As explained in the sections that follow, this is due to:

- A. Significant E0 demand, calculated at 5.3 billion gallons by EIA for 2015 or 3.8% of 2015 gasoline demand
- B. Limited E85 demand of less than 100 million gallons according to EIA, equivalent to less than 0.1% of gasoline demand
- C. Limited E15 demand

API recommends that the 2017 RFS Standards should not require more than 13.92 billion gallons of ethanol. This volume is based on the assumption that the total gasoline pool in 2017 should contain 9.7 volume % ethanol on average, plus an allowance for the small amount of ethanol contained in E85. We believe the volume of E15 in 2017 will be negligible and will not contribute significantly to the total volume of ethanol consumed in the market. The calculation of 13.92 billion gallons of ethanol appears in the table below:

2017 Gasoline Demand		9.31	MMbpd	from May	2016 STEC
		142.72	Bgal/yr		
all volumes in Baal/yr					
Gasoliine Volume	142.72				
Ethanol in gasoline	9.70%	13.84			
E15 Volume	0.00				
Ethanol in E15	15%	0			
E85 Volume	0.10				
Ethanol in E85	74%	0.074			
Total Ethanol Consumptic	-n	13 92	Bgal/vr		

The methodology using the 9.7% blendwall target was previously recommended by AFPM and API in comments to the 2014, 2015, and 2016 RFS NPRM. We determined that an average value of 9.7 volume % ethanol is a target that adequately covers the typical volumes of E10 and E0 in the marketplace. The 9.7% target reflects the lowest volume of E0 observed in the marketplace (3% of the total gasoline pool) in recent years. Using a 9.7% target is a simple, practical, and consistent method that acknowledges the presence of E0 in the market but does not require a quantification of the annual E0 volume and the corresponding adjustment in the blendwall target. In fact, we believe that the 9.7% target is generous and will usually understate the volume of E0 in the marketplace. This methodology is a reasonable balance between increasing the allowable content of ethanol in the gasoline pool while keeping the market away from the edge of the blendwall.

1. Significant E0 Demand

E0 is demanded by boaters, small equipment and non-road users, motorcyclists, and by vehicle owners. EPA should treat these consumer groups equally in setting standards that allow them access to the E0 they demand. While EPA acknowledges that E0 demand constrains the volume of ethanol that can be supplied to the market, ¹⁵ the agency only quantifies recreational marine use of E0 and does not recognize other legitimate consumer demands for this fuel. In fact, EPA dismisses these other demands in stating that the RFS program is increasing renewable fuel supply by incentivizing the transition from E0 to E10 and higher ethanol blends. In reality, there is ample incentive to supply E10, and a final rule that dismisses the real demand for E0 risks triggering the negative economic consequences of the ethanol blendwall. We do not believe Congress intended for the RFS to eliminate the option of E0 for highway use as EPA implies.

EPA needs to account for the significant demand for ethanol free E0 gasoline in setting the final 2017 RFS standards. In comments to the proposed 2014 RFS, API and AFPM provided a methodology for determining E0 demand based on available E0 data. The two trade groups also suggested that improved data collection would enhance EPA's ability to project demand. EPA dismissed the API/AFPM assessment of E0 demand in setting the final 2014-2016 RFS, noting in the response to comments "we do not believe that recent supply of E0 is on the order of 3% of the gasoline pool." The final 2016 standard presumed 124 million gallons of E0 would be supplied in 2016, and EPA did not respond to critiques from API or stakeholders in the boating community to calculation of E0 demand at marinas that was provided in a memo to the docket in that rule covering the 2014 – 2016 RFS standards.

In May 2016 EIA released an estimate of 5.3 billion gallons for total E0 usage in 2015, ¹⁶ which was about 3.8% of the 2015 gasoline demand. EIA's assessment demonstrates that EPA's estimate of 200 million gallons of E0 nationwide demand is wrong: it amounts to only 4% of EIA's estimate. It is also less than the E0 demand reported by the Iowa Department of Revenue for Iowa alone. ¹⁷ In determining the 2017 RFS standards, EPA should use the same methodology outlined in the referenced May 2016 EIA memo for developing E0 demand estimates.

2. Limited E85 Demand

Stated simply, based on the information provided in this Proposed Rule and historical data of E85 demand, it is not reasonable to expect any significant increase in E85 sales in 2017; the market does not demand E85 fuel. Relying on the mere possibility that demand for E85 might increase in 2017 is a risky approach for obligated parties, consumers and the economy and EPA should not set standards based on this assumption.

¹⁵ Proposed Rule (page 34790)

¹⁶ Today in Energy, Almost All U.S. Gasoline is Blended with 10% Ethanol, May 4, 2016.

¹⁷ "2015 Retailers Fuel Gallons Annual Report," Kathy Harpole, Research and Analysis Division, Iowa Department of Revenue, April 2016

a) E85 Sales from Existing Infrastructure

API has commented extensively on E85 demand in comments submitted in response to the (a) proposed rule for the 2014 Standards for the Renewable Fuel Standard Program published on November 29, 2013 and (b) proposed rule for the 2014, 2015, and 2016 Renewable Fuel Standards and 2017 Biomass-Based Diesel Volume standard published on June 10, 2015. 18

EPA developed estimates of current and historical volumes of nationwide E85 consumption based on linear regression analyses of E85 sales volumes obtained from five states (MN, CA, IA, NY and ND) as a function of the price of E85 relative to gasoline as determined from data drawn from www.e85prices.com (a website maintained by the Renewable Fuels Association), and normalized by estimates of E85 station counts taken from the DOE Alternative Fuels Data Center. This methodology (and related results) is outlined in a series of EPA memos to the Docket. The property of the developed property of the dev

As EPA acknowledged in its analysis, the use of data from E85prices.com is fraught with issues. The data: (a) represent voluntary contributions by individuals, (b) are not collected consistently over time, and (c) are not obtained consistently in proportion to the number of retail stations in a given state/geographic area. This contributes to a significant amount of uncertainty in the individual linear least-squares regressions that EPA developed for each of the 5 states included in its analysis, which is made evident by the extremely low R-squared coefficient statistics (which ranged from 0.004 to 0.33 for 4 of the 5 states) that accompany these results. Based on these poor statistical results, the methodology is not sound to be used in rulemaking and should be dismissed by EPA.

Likewise, it is not clear that the five states which supplied the E85 sales volume data used in EPA's analysis collected this information in a similar and consistent manner. For instance, the time periods encompassed in each of the five data sets varied from state to state, and some (e.g., Iowa) were provided on a quarterly (as opposed to monthly) basis. Furthermore, the extent to which incentives provided by some states for E85 usage may have introduced a bias to the data employed in the EPA analysis is unclear.

In short, the disparate nature of the underlying data used by EPA lead us to question the accuracy and validity of the methodology developed by the Agency to estimate nationwide E85 volumes.

EPA states in the preamble to the current Proposed Rule that it has estimated E85 demand for 2014 and 2015 to be 150 million gallons and 166 million gallons, respectively. EPA further

¹⁸ See EPA-HQ-OAR-2013-0479-5293 and EPA-HQ-OAR-2015-0111-1948

¹⁹ David Korotney, EPA, Correlating E85 Consumption Volumes with E85 Price, EPA-HQ-OAR-2015-0111

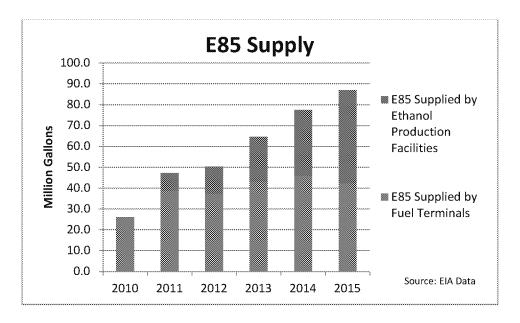
²⁰ David Korotney, EPA, Estimating Achievable Volumes of E85, EPA-HQ-OAR-2016-004

²¹ David Korotney, *Preliminary Estimate of E85 Consumption in 2015*, EPA-HQ-OAR-2016-004 David Korotney, *Estimates of the number of retail stations offering E85*, EPA-HQ-OAR-2015-

²³ Dallas Burkholder, Estimating E85 Consumption in 2013 and 2014, EPA-H-OAR-2016-004

states: "In deriving the 2016 volume requirements we estimated that E85 volumes would increase to 200 million gallons, though we also said that 400 million gallons was possible under highly favorable though unlikely conditions." As we have noted in the earlier comments on the 2014, 2015, and 2016 RFS standards, we believe that the approach used by EPA to estimate nationwide E85 consumption leads to a substantial understatement of this volume relative to the statistics provided by EIA.

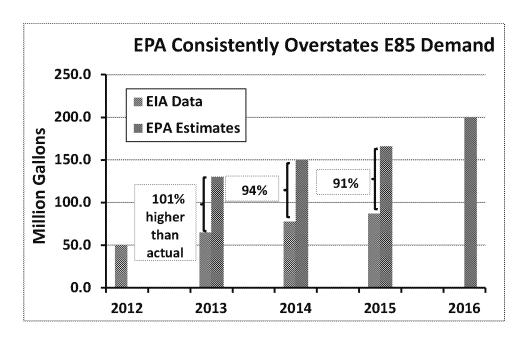
The EIA data table *U.S. Refinery and Blender Production of Motor Gasoline, Finished, Conventional, Greater than Ed55* (ethanol blends above 55%)²⁴ shows the volume of E85 blends distributed from bulk terminals. And the EIA data table *Renewable Fuels & Oxygenate Plant Net Production*²⁵ shows E85 distributed directly from ethanol production facilities. These two data series, summed together (as illustrated in the figure below), provide the most reliable estimate of national E85 consumption.



A comparison of EPA estimates of E85 volumes (as reported in the preambles to recent RFS proposed rulemakings) with the EIA data indicates that the Agency has consistently overstated this metric by about 91-101% for the past three years (2013-2015). (See the figure below.)

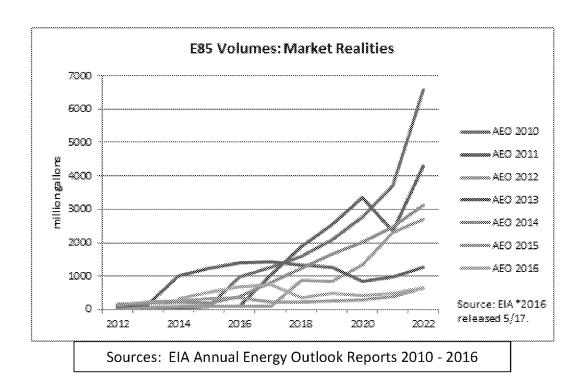
²⁴http://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=M_EPM0CAG55_YPR_NUS_MBBL&f=A

²⁵http://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=M_EPM0F_YNP_NUS_MBB L&f=A

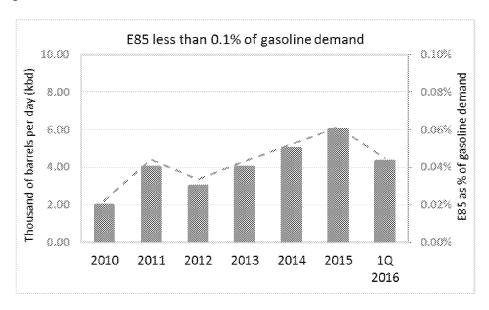


This further underscores our concerns regarding the accuracy of the Agency's E85 methodology and raises questions about the credibility of EPA's projections of E85 demand for 2016 and later years.

EPA is, however, not the only federal agency which has consistently missed the mark in projecting future volumes of E85. As shown in the chart below, previous EIA projections of E85 demand have not materialized (and have, in fact, swung rather wildly in the near term).



All of the above being said, the nationwide volume of E85 demand currently represents a tiny fraction of total annual motor gasoline consumption (as shown by the chart below). E85 demand has been consistently less than 0.1% of annual gasoline demand according to EIA, and this fraction is not likely to grow significantly in the near term for the reasons which we discuss in the following section.

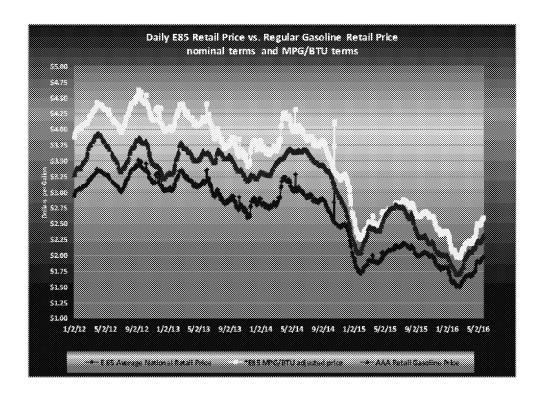


b) Consumer Behavior

No definitive study shows why customers have not used E85 with greater frequency. ²⁶ Some short term and limited analysis (focused on a limited sample of states) by The Fuels Institute and EPA indicates that consumers would respond to E85 price adjustments that account for the lower E85 energy content (as shown by the graph below). As discussed above, there is no historical evidence to support any significant consumer response to a differential between retail prices of E85 and motor gasoline. E85 volumes remain below one tenth of one percent of total annual gasoline demand. Whether an energy-adjusted differential between E85 and motor gasoline price is indeed an accurate predictor of consumer behavior is therefore uncertain. Testimony provided by a gasoline marketer at EPA's Public Hearing in Kansas City, KS on June 25, 2015 indicated that demand declined despite E85 being priced 25% below E10. This would suggest that consumers may also be considering "convenience cost" in choosing whether to purchase E85. In general, E85 reduces fuel economy and range by about 20-30 percent," according to the May 2010 EPA Technical Highlights paper, "E85 and Flex Fuel Vehicles." If E85 were sold at an energy-equivalent price, operators of FFVs would still be inconvenienced because would have to stop to refuel 30 percent more often than if they used gasoline.

http://www.epa.gov/oms/renewablefuels/420f10010a.pdf

 $^{^{26} \ \}underline{http://www.eia.gov/biofuels/workshop/presentations/2013/pdf/presentation-04-032013.pdf}$



Source: AAA (gasprices.aaa.com)

c) State Incentive Programs Have not Worked

The proposed rule states that E85 volumes can increase from 200 million gallons per year to nearly 400 million gallons per year²⁸ citing the Korotney Memorandum to the Docket.²⁹ The proposal also states that these increases are "possible if the market can overcome constraints associated with E85 pricing at retail and consumer responses to those prices."³⁰ Yet the Korotney memo also states, "Since reaching 400 million gallons of E85 in 2017 would require a confluence of optimum conditions based on the information currently available, and our efforts to quantify the actions needed require considerable speculation as to how consumer responses to E85 price discounts may be affected by E85 marketing strategies, signage, and consumer education, 400 million gallons of E85 appears to be highly unlikely in 2017."

The rule fails to account for the significant incentives that have been offered to every part of the supply chain for higher ethanol blend fuels. These incentives include significant loans, grants, rebates, tax incentives, and other incentives that have been available to higher level ethanol blended fuels more than a decade without any meaningful increase in the demand for the fuel. As described below, these incentive programs intended to increase the sale of E85 have not proven successful and the incentives from the USDA's Biofuel Infrastructure Partnership (BIP) are only

²⁸ Proposed rule, page 34787

²⁹ "Estimating achievable volumes of E85," Korotney, David, U.S. EPA, OTAQ, EPA Air Docket EPA-HQ-OAR-2016-0004

³⁰ Proposed rule, page 34800

the latest in a long line of programs that to date have not shown any meaningful change in E85 sales.

In 2009 the National Renewable Energy Laboratory completed a study estimating the achievable volumes of E85. ³¹ That study remains relevant today. It states that,

Historically, the U.S. Department of Energy (DOE) Clean Cities Program has been the chief federal catalyst for the deployment of E85 infrastructure. Between 1999 and 2006, Clean Cities provided \$11 million in grants to 33 states to install biofuels infrastructure.

...

U.S. state governments collectively <u>offer scores of financial incentives and favorable regulatory policies</u> that promote the use of alternative fuels. These programs include industry recruitment incentives, corporate tax credits, net metering policies, grants, loan programs, rebate programs, personal tax credits, sales tax exemptions, property tax exemptions, and production incentives. [emphasis added]

The report goes on to say:

Sixty percent of states are significantly invested in supporting E85 through grants, loans, or tax incentives for E85 infrastructure... Certain states have provided funding through grant programs to install E85 dispensers, including blender pumps, at refueling stations. [These states include Michigan, Iowa, South Dakota, Illinois, Tennessee, Ohio, and New York].

[The report identifies states that provided tax credits for fueling stations including, South Carolina, Ohio, Idaho, and Michigan].

A review of the U.S. Department of Energy – Energy Efficiency & Renewable Energy, Alternative Fuels Data Center³² report on incentives related to ethanol shows that these financial enticements continue to this day and include not only the retail gasoline station but biofuel production facility grants, tax exemptions and loans, state requirements to acquire alternative fuel vehicles (e.g., E85) and significant tax incentives for the retail and bulk price for E85. Iowa uses many of these tools to facilitate the sale of products with greater than 10% ethanol. However, the sale of high-ethanol fuels remains incredibly low. In contrast the sale of fuels without ethanol, in the heart of the Corn Belt, is very high.

PMAA's written testimony, intended to be delivered at the June 9 hearing in Kansas City, provides an example of a failed attempt to sell higher ethanol blend fuels.

... [The speaker's] family business also has invested in legal infrastructure for higher blends. At that location where we spent over \$100,000 to do so we averaged 58 gallons a day of blends over E10 in 2015. A few years ago, the North Dakota Department of

³¹ "E85 Dispenser Study," K. Moriarty et. al., Technical Report NREL/TP-7A2-47172, December 2009

³² Example link to "Minnesota Laws and Incentives for Ethanol," http://www.afdc.energy.gov/fuels/laws/ETH/MN

Commerce had a Blender Pump Program. A follow up survey was conducted by the North Dakota Petroleum Marketers Association which found that after the "commitment to offer higher blends" conditions were met, that 64 percent of respondents had discontinued or planned on discontinuing the sale of E85 and other higher blends.

The 2015 Iowa Fuels report published in April 2016 by the Iowa Department of Revenue³³ shows that contrary to the EPA's belief that additional incentives and marketing techniques for E85 will create consumer demand, the consumer actually prefers non-ethanol gasoline. As shown in the Table below, non-ethanol gasoline (E0) sales in Iowa accounted for 14% of the total volume of gasoline and higher level ethanol blends. On the contrary, sales of fuels with greater than 10% ethanol (E15 plus E20 plus E85) accounted for only 1.4% of the volume of gasoline and ethanol/gasoline sales. As shown here, contrary to EPA's estimate of E0 demand of only 200 million gallons for the whole country, the sale of E0 in Iowa alone accounts for 220.4 million gallons.

2015 Iowa Fuel Sales

Fuel	Sales as percent of total gasoline and ethanol/gasoline sales	Volume (Million gallons)
E0	14%	220.4
E85 and E20*	1%	15.7
E15**	0.4%	6.2
Total ethanol share of fuel sales	9.2%	143.8
Total sales gasoline and ethanol	100%	1,561.7

^{*} E85 = 13.2 million gal. and E20 = 2.5 million gal.

d) E85 Fuel Infrastructure Constraints and Flexible Fuel Vehicles

The E85 infrastructure required to facilitate E85 consumption includes primarily the terminals, the retail stations, and the vehicles. We will focus most of our comments on the retail challenges.

(1) High E85 Retail Infrastructure Costs

The cost of installing E85 retail infrastructure is high. In a letter to Chairman Upton and Ranking Member Pallone, House Committee on Energy and Commerce, the Petroleum Marketers Association of America (PMAA) states, "The problem for underground tank owners is 99 percent of existing equipment currently in the ground is not *legally* certified as compatible

^{**} E15 is defined by the State as E15 and E15 flex (E15 is sold in summer as Ethanol Flex Fuel)

³³ "2015 Retailers Fuel Gallons Annual Report," Kathy Harpole, Research and Analysis Division, Iowa Department of Revenue, April 2016

with ethanol blends higher than 10 percent."³⁴ In the July 15, 2015 rule on underground storage tanks, EPA discusses existing systems and states:

EPA thinks there are many cases where some equipment or components of UST systems in the ground as of 2014 are not compatible with newer fuels. Unless owners and operators specifically requested all of the UST system be compatible with higher ethanol or biodiesel blends, installers probably installed lower cost options for certain UST system equipment, such as a STP assembly, which may not be compatible with some newer fuels.³⁵

This means most retail stations would have to undergo extensive retrofits to install or upgrade their existing equipment to become E85-compatible and to be able to legally store and dispense E85

Three marketer associations - Petroleum Marketers Association of America (PMAA), Society of Independent Gasoline Marketers of America (SIGMA), and National Association of Convenience Stores (NACS) - have indicated that the cost of replacing USTs to facilitate E85 sales can exceed \$200,000 per station.³⁶

In the above-referenced letter to Chairman Upton, PMAA further stated that it "... continues to maintain that E85 fueling pumps are unlikely to achieve meaningful growth without billions of dollars in government subsidies for installation of legally compatible underground storage tank systems and dispensers capable of handling higher content ethanol blends." If a station is not in compliance with the applicable regulations and codes, marketers can face potential negative consequences. For example, they may have their bank loan called, may be denied an insurance claim and/or access to their state trust fund or face fines and legal action brought by the state or an individual.

According to DOE data, there were 2990 E85 stations in the U.S. in 2015. According to the DOE web site on June 30, 2016, there are 2,806 E85 stations in the U.S., a 6% decline from the 2015 number. Although there was initial rapid growth in E85 stations (2005 – 2011), since 2010 the year-to-year growth rate in the number of E85 stations has declined from 118% to 5% per

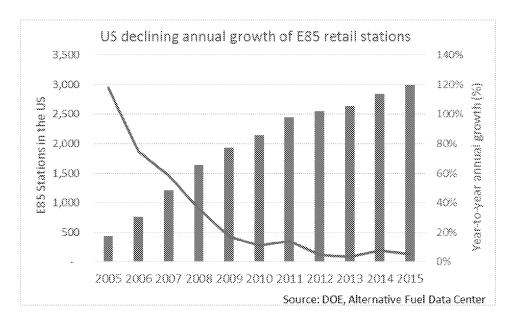
³⁴ PMAA letter to Chairman Upton and Ranking Member Pallone, House Committee on Energy and Commerce, May 1, 2015.

http://www.pmaa.org/weeklyreview/attachments/PMAA_Rebuttal_RFA_April_2015_FINAL%20.pdf

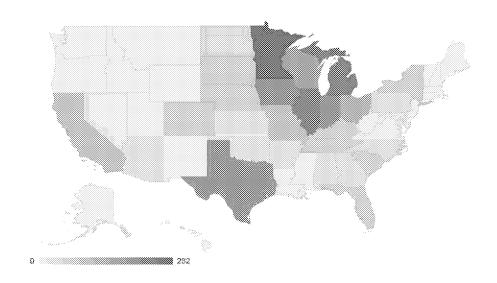
³⁵ EPA rule, "Revising Underground Storage Tank Regulations - Revisions to Existing Requirements and New Requirements for Secondary Containment and Operator Training," 80 Federal Register 41604 (7/15/15).

³⁶ SIGMA and NACS letter to Mr. John Podesta, Counselor to the President (July 10, 2014); PMAA letter to Chairman Upton and Ranking Member Pallone, House Committee on Energy and Commerce (May 1, 2015).

figure below. 2016 may represent a decrease in the number of stations if the mid-year data point holds through year-end.



E85 stations are not evenly distributed across the U.S., resulting in varied availability.³⁷



(2) Small Business Impacts

Retail station ownership is dominated by small businesses among which 58% are single store owners.³⁸ As with any business, and even more so for small businesses, the owner must

³⁷ Alternative Fuels Data Center http://www.afdc.energy.gov/data/10367

carefully evaluate the economics involved. This includes product margin and volume forecasts (to gauge revenue) in addition to the investment costs needed to ensure all equipment and infrastructure meets regulatory requirements. The Fuels Institute publication referenced above also reported that E85 sales at the 304 locations from which they collected data averaged 2.8% of unleaded sales with a margin that was 20% lower than unleaded.

If an existing station planned to introduce E85, one or more existing products might need to be replaced, depending on whether the plans included the addition of storage tanks and modification of dispensers. For example, a retailer might consider the margins associated with selling E85 and compare those to the margins of the product that they were replacing. If the retailer were to replace the Premium fuel in a two-tank system with E85, then the ability to make Midgrade fuel would be lost due to the fact that Midgrade is made by blending Regular and Premium fuel at the pump. Therefore, the marketer must compare the potential margins of Premium and Midgrade together with the potential margin of E85. According to the Fuels Institute study, the "combination of margins and volume demonstrate that, over the time period being evaluated, E85 generated an average monthly profit of \$789. This is less profitable than either premium (\$1,193/month) or midgrade (\$1,466/month)." ³⁹ If the station were required to invest in infrastructure changes and replace its premium and/or midgrade gasolines, these average margins show that there would be no payback on such an investment.

(3) Flexible Fuel Vehicles (FFVs)

There are currently about 19.6 million FFVs in operation, representing about 8% of the nation's light-duty car and truck fleet. Incentives for the auto manufacturers to make more FFVs in the future have been reduced beginning with the 2016 model year and are phased out for 2019 and later model years as a result of the new NHTSA/EPA CAFE/tailpipe GHG requirements. Consequently, the automakers have been reducing the number of FFV models available for consumers to purchase and growth in the number of FFVs on the road is expected to moderate, if not decline. This expectation is reflected in the 2016 Annual Energy Outlook recently released

http://www.nacsonline.com/YourBusiness/FuelsReports/2015/Documents/2015-NACS-Fuels-Report full.pdf ("There are 127,588 convenience stores selling fuel in the United States, and these retailers sell an estimated 80% of all the fuel purchased in the country. Overall, 58% of the convenience stores selling fuel are single-store operators — more than 70,000 stores.").

³⁸ 2015 NACS Retail Fuels Report, p. 28

³⁹ Fuels Institute. *E85 A Market Performance Analysis and Forecast*, 2014. Accessible at: http://fuelsinstitute.org/ResearchArticles/E85 AMarketPerformanceAnalysisForecast.pdf

⁴⁰ Statement of Howard Gruenspecht Deputy Administrator Energy Information Administration U.S. Department of Energy Before the Committee on Energy and Commerce Subcommittee on Energy and Power United States House of Representatives. June 22, 2016.

⁴¹ CAFE credits phase out in 2019, (P.L. 110-140, Section 109(a), 49 USC 32906(a)), and other CAFE, GHG (77 FR 62830-62831 and 63127-63130 (October 15, 2012)) and Tier 3 (40 CFR 80.600.117) requirements reduce or eliminate automaker incentives to produce FFVs.

by EIA which forecasts FFV sales to peak at \sim 2 million units in 2017 and then fall back to current levels (\sim 1.7 million units) by 2020. ⁴²

3. E15 Issues

E15 is not a viable solution to the E10 blendwall because E15 is incompatible with most of the existing vehicle fleet, the existing refueling infrastructure, and due to the potential liability issues associated with marketing the fuel. The hurdles to E15 will remain for the scope of this rulemaking, and the foreseeable future as significant changes in infrastructure and the vehicle fleet will take many years.

a) E15 Incompatibility with the Existing Vehicle Fleet

No automobile manufacturer has stated that their model year 2011 and older gasoline vehicles are compatible with E15. Manufacturers of many new vehicles today have stated that the use of E15 may damage vehicle engines and will not be covered under vehicle warranties. With an average vehicle age of 11.5 years, 43 the overwhelming majority of vehicles on the road today have neither been certified nor warranted for ethanol blends above 10 volume percent, and every automaker has declined to extend warranty coverage if its legacy vehicles are operated using E15. 44 E15 is only compatible with Flexible Fuel Vehicles ("FFVs") and some newer model year cars specifically designed to accommodate E15. Together, ethanol blends exceeding 10 volume-percent are only compatible with approximately 10 percent of vehicles on the road. 45 Auto manufacturers' models recommendations for E15 use in non-flex fuel vehicles as of January 2015 are summarized in the following chart:

⁴² EIA, Annual Energy Outlook 2016 Early Release, May 17, 2016

⁴³ IHS, Average Age of Light Vehicles in the U.S. Rises Slightly in 2015 to 11.5 years, IHS Reports. July 29, 2015 Accessed June 13, 2016 at http://press.ihs.com/press-release/automotive/average-age-light-vehicles-us-rises-slightly-2015-115-years-ihs-reports
http://sensenbrenner.house.gov/UploadedFiles/E15 Auto Responses.pdf

Based on API analysis of retail sales data published by <u>Automotive News</u>, estimates of the stock of FFVs and total light-duty vehicles in operation published in the EIA <u>Annual Energy Outlook</u> 2015 Reference Case, and auto manufacturer reports of E15-compatible vehicles by model year

Manufacturer	***************************************		***************************************						del Yea		***************************************			***************************************	***************************************	
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
BMW																
Chrysler																Most ⁶
Ford													Yes	Yes	Yes	Yes
GM												Yes	Yes	Yes	Most ⁴	Most ⁴
Honda/Acura														Some ¹	Yes	Yes
Hyundai/Kia																
Jaguar/Land Rover														Yes	Yes	Yes
Mazda																
Mercedes																
Mitsubishi																
Nissan/Infiniti																
Subaru																
Toyota/Lexus														Some ³	Most⁵	Most ^s
VW/Audi/Porsche														Yes	Yes	Yes
Volvo																

E15 Chart Sources:

http://www.edmunds.com/ownership/howto/articles/120189/article.html and auto company contacts

³Avalon, Camry, Corolla, Highlander, iQ, Prius, RAV-4, SciontC, Sienna, Venza; Lexus: CT200H, ES350, GS300/350, GS450H, IS250, IS350, LS460, RX350, RX450H, but not 4Runner, FJ Cruiser, Land Cruiser, Sequoia, Tacoma, Tundra, Yaris;

Lexus: IS250C, IS350C, ISF, GX460, LX570

4Not Chevrolet City Express

¹Accord, Civic, Crosstour, CR-V, CR-Z, Insight, Odyssey, Pilot; Acura: ILX, MDX, RDX, RLX, but not TL, TSX, TSX Wagon

²Some owner manuals for 2014 and 2015 incorrectly stated that £15 was allowed.

⁵Not FR-S, xB (model discontinued after 2015).

⁶Not Dodge Viper

Reprinted below are excerpts from auto industry responses to Congressman Sensenbrenner's questions about warranties for vehicles that have been operated with E15. 46

Automotica	315 (2013)	Excerpts from Sensenbrenner Response
Nissan	No	We are not at all confident that there will not be damage to MY 2001 and later vehicles with E15
Volkswagen	No	Volkswagen agrees that EPA did not conduct an adequate test program when E15 was considered
Volvo	No	The risks related to emissions are greater than the benefits in terms of CO2 when using low-blend E15 for variants that are designed to E10.
BMW	No	The BMW Group engines and fuel supply systems can be damaged by misfueling with E15.
Hyundai	No	The EPA tests failed to conclusively show that the vehicles will not be subject to damage or increased wear.
Kia	No	EPA testing failed to determine that vehicles will not be subject to damage or increased wear.
Chrysler	No	We are not confident that our vehicles will not be damaged by E15
Ford	No	Ford does not support the introduction of E15 into the marketplace for the legacy fleet
General Motors	No	We are not confident that our vehicles will be undamaged by the use of E15.
Mercedes-Benz	No	Any ethanol blend above E10, including E15, will harm emission control systems in M-B engines
Honda	No	Vehicle engines were not designed or built to accommodate higher concentrations of ethanol
Mazda	No	The record fails to demonstrate that motor vehicles would not be damaged
Toyota	No	Toyota cannot recommend the use of fuel with greater than E10 for Toyota vehicles

The ethanol industry recommends following automobile owner's manuals. The Renewable Fuels Association has made the following statement: "The best advice to give to consumers is for them to read their owner's manuals and follow the advice of the company that provides the warranty, and built the product."⁴⁷ As discussed here, only a small subset of the vehicle fleet in the U.S. is warranted by the automobile manufactures for E15.

⁴⁶ *Id.* http://sensenbrenner.house.gov/UploadedFiles/E15_Auto_Responses.pdf
47 http://www.ethanolrfa.org/exchange/entry/read-the-label/

Tests conducted by the Coordinating Research Council (CRC) showed that ethanol concentrations in gasoline that exceed 10 percent can lead to engine and fuel system damage. ⁴⁸ Below is a description of the testing itself, the test results, and potential consequences that the test results support.

E15 Fuel Systems and Engine Durability Testing and Results⁴⁹

CRC began testing fuel pump and fuel level systems in 2008 using established testing procedures widely used within the automotive industry to evaluate and predict new product life. Tests were done on fuel pumps and fuel level systems on popular 2001 and newer gasoline light-duty vehicles with actual fleet penetration likely greater than 29 million vehicles in total. Fuel systems were evaluated using two testing protocols, a soak test (i.e., immersion) and an endurance test (i.e., "continuous" operation).

To evaluate engine durability, CRC employed the testing protocols used by a participating OEM. The testing cycle was designed to simulate the accumulation of approximately 100,000 miles. Eight pairs of popular 2001 and newer models were tested.

The results of the testing demonstrate that not all vehicles tested showed damage, as some fuel systems and engines passed with no problems. However, the fuel pump systems on popular 2001 and newer gasoline light-duty vehicles failed or exhibited other adverse effects during testing on E15. E15 caused swelling in some pump impellers – a key component of the fuel pump that moves fuel into the fuel line. As the fuel pump impellers swelled, the component jammed against is housing, resulting in the loss of vanes and causing fuel flow to halt. Two popular gasoline engines used in light-duty automotive applications of vehicles from model years 2001 and newer failed with mechanical damage when operated on E15.

The test results demonstrate there are potential negative consequences for consumers. The impacted vehicles are popular 2001 and newer vehicles that are approved for use with E15 by EPA. Fuel pumps seized with E15 on both the soak test and the endurance test, which would cause the engine to stop, potentially putting motorists at risk. Fuel Level Sender Systems were found to send erratic or "dirty" signals (e.g., indications of noise, spikes). In addition to potentially false tank readings on the instrument panel, the erratic signals could negatively impact the operation of the onboard diagnostic system. Engine durability results showed valve and valve seat damage that result in a loss of compression, excess emissions, and poor performance that may require expensive repair work. It is worth noting that the CRC tests

⁴⁸ Coordinating Research Council, "Intermediate-level Ethanol Blends Engine Durability Study," April 2012; Coordinating Research Council, "Durability of Fuel Pumps and Fuel Level Senders in Neat and Aggressive E15."

^{49 &}quot;Intermediate Level Ethanol Blends Engine Durability Study", April 2012, http://www.crcao.com/reports/recentstudies2012/CM-136-09-18%20Final%20Report.pdf; Durability of Fuel Pumps and Fuel Level Senders in Neat and Aggressive E15, January 2013 http://www.crcao.org/reports/recentstudies2013/CRC%20664%20[AVFL-15a]/AVFL%2015a%20[CRC%20664]%20Final%20Report%20only.pdf

assessed long-term damage and may not be reflective of effects associated with short-term (i.e. single tank) use of E15.

b) E15 Incompatibility with Existing Fuel Retail Infrastructure

In addition, E15 is incompatible with the existing refueling infrastructure. As much as half of the retail gasoline infrastructure may not be compatible with ethanol blends above 10 percent. Prior to 2010, Underwriters Laboratories (the primary Nationally Recognized Testing Laboratory) had not listed a single dispenser as compatible with any alcohol concentration greater than 10 percent. Given that states require this certification and that dispensers have useful lives greater than 20 years, the vast majority of dispensers in the country are not currently authorized to dispense E15. The same issue exists with the underground storage tanks and piping systems. Approximately 96% of the gasoline stations in the country are independently owned and it is beyond the control of the obligated parties to require investments to make those stations compliant. S1

Stakeholders in the ethanol industry have asserted⁵² that the law requires obligated parties – refiners and importers – to invest in retail infrastructure to offer higher ethanol blends even though such obligated parties own less than five percent of the retail gasoline stations. Such assertions are unsubstantiated and simply false. CAA section 211(o) does not require any party to invest in retail infrastructure, nor can any such obligation be implied in the law or EPA's implementing regulations. As EPA has recognized in the past, members of the renewable fuel industry are free to invest in such infrastructure – it is after all, their product that they are trying to force on consumers.⁵³ Indeed, if members of the ethanol industry truly believed that the only market impediment to greater consumption of E15 and E85 were a lack of fueling pumps, they should be willing to invest in retail fueling stations so that they could profitably satisfy the rewards of alleged unmet consumer demand for higher ethanol blends.

In 2010 and 2011 EPA granted partial waivers to allow gasoline that contains 15% ethanol, yet there has been very little introduction of E15 in the marketplace. The proposed rule discusses the USDA Biofuel Infrastructure Partnership grant funding that EPA expects will increase number of E15 stations by nearly 1,500. EPA makes several assumptions regarding the BIP that are unsupported and optimistic: all 1500 stations will be in service for the full year in 2017; all stations will offer E15; and E15 sales will be 50% of total gasoline at all stations. It is also

⁵⁰ Larry Gregory Consulting, LLC. "A Comprehensive Analysis of Current Research on E15 Dispensing Component Compatibility" March 2012. Found at http://www.api.org/news-and-media/news/newsitems/2012/aug-2012/~/media/Files/Policy/Alternatives/E15-Infrastructure-Comprehensive-Analysis.ashx

Comprehensive-Analysis.ashx
51 PMAA letter to Chairman Upton and Ranking Member Pallone, House Committee on Energy and Commerce, May 1, 2015.

http://www.pmaa.org/weeklyreview/attachments/PMAA_Rebuttal_RFA_April_2015_FINAL%2 0.pdf

⁵² http://www.ethanolrfa.org/pages/big-oil-builds-the-blend-wall,

⁵³ Proposed Rule, Renewable Fuel Standard Program: Standards for 2014, 2015, and 2016 and Biomass-Based Diesel Volume for 2017, Docket ID No. EPA-HQ-OAR-2015-0111

important for EPA to keep in perspective that there are approximately 153,000 retail fuel stations in the U.S.; ⁵⁴ and just 1% would carry E15 if the expectations of the BIP program are met.

The retail refueling system in the United States grew organically as private enterprise made capital investments to sell consumers products that they demanded. There is nothing stopping members of the ethanol industry from doing the same to bring to market more E15, E85, and other renewable fuels to consumers. In fact, the number of retail fuel stations has declined significantly in the past several years, suggesting that there are opportunities for members of the renewable fuel industry to construct renewable fuel fueling stations to provide E15, E85 and other renewable fuels to consumers. If the renewable fuels industry believes there is consumer demand and economic benefits from making such investments and is willing to accept the potential liability for selling fuels that are not compatible with consumers' vehicles, then it is reasonable to expect *the renewable fuel industry* will make such investments. It is not reasonable to forecast that obligated parties or independent retailers will make potentially uneconomic decisions and then base RFS standards on such an assumption.

c) Liability Concerns

Finally, the potential liability issues associated with marketing E15 fuel will hinder its introduction. EPA must factor in the risks and potential liabilities presented by E15 in terms of vehicle and infrastructure incompatibility. EPA must avoid promulgating a rule that incentivizes the manufacture and sale of a fuel product (E15) that carries with it a number of substantial (and unresolved) liability issues. Specifically, E15:

- Could damage engines and other systems in millions of vehicles that have been "approved" by EPA for E15, but which are unapproved for such fuel by the vehicle manufacturers and for which use may void the vehicle warranty;
- Is illegal for use in tens of millions of older automobiles, trucks, off-road vehicles, boats and small-equipment products, and may decrease the availability of the gasoline required by owners of these products;
- Results in diminished fuel economy for most vehicles, thus reducing vehicle efficiency;
- Is incompatible with, and thus cannot legally be stored in or dispensed from, the vast majority of the existing gasoline retail distribution system, requiring enormous costs to upgrade retail systems.

A recent Report by Iowa Department of Revenue shows that the average per station E15 sales in Iowa is only 15% of average per station E10 sales. 55 Given this history and the concerns raised in

⁵⁵ "2015 Retailers Fuel Gallons Annual Report," Kathy Harpole, Research and Analysis Division, Iowa Department of Revenue, April 2016

⁵⁴ The Fuels Institute, A Market Performance Analysis and Forecast, 2014.

this section, the EPA's aspirational goal of half of the gasoline sold at the average retail gasoline station being E15⁵⁶ is unlikely at best.

4. Conventional Renewable Imports

Since 2013, when EPA's RFS standards breached the E10 blendwall, EPA's EMTS has reported sharp annual increases in D6 RINs from renewable diesel and biodiesel and simultaneously an increase in imports of D6 RINs. Similarly, EIA has reported high biodiesel imports from Indonesia, a major palm oil producer and exporter. In its 2012 NODA, EPA presented data that disqualified palm oil biodiesel/renewable diesel from being categorized as conventional renewable fuel. ⁵⁷ In a recent 2016 report funded by the European Commission, ⁵⁸ GHGs emitted from land use change using palm oil as biodiesel feedstock are estimated at 231 gCO2e/MJ of biofuel produced, resulting in palm oil to biodiesel pathway GHG emissions that are greater than 200% higher than diesel fuel emissions. Nonetheless, palm oil imports into the U.S. have been permitted to qualify for the RFS due to grandfathering provisions of the Energy Independence and Security Act of 2007 (EISA).

A direct implication of setting renewable fuel volume standards that exceed the ethanol blendwall is that it encourages imported biodiesel that is produced from palm oil⁵⁹. EPA's own analysis⁶⁰ finds that biodiesel produced from palm oil fails to meet GHG emission reduction requirements of the RFS, except it is allowed if it meets grandfathering provisions of EISA. Biodiesel imports into the U.S. from Indonesia, a leading palm oil producing country, have increased from zero in 2012 to 73 million gallons in 2015⁶¹. This outcome of increased palm oil biodiesel consumption in the U.S. is another inconsistency with EISA's stated purpose to "...to increase the production of clean renewable fuels..."

In the 2017 RFS proposal, EPA set the conventional volume at 14.8 billion RINs or 10.42% of the gasoline pool if all conventional biofuel were ethanol, hence breaching the E10 blendwall. In Table IID.1 of the proposal, EPA assumes 400 million gallons of conventional biodiesel/renewable diesel are included in the conventional D6 pool. This continued practice of EPA to encourage imports from grandfathered facilities, including palm based biodiesel/renewable diesel results in significant increases in GHGs, contrary to the stated intents of the Agency to lower GHGs.

API recommends that EPA remove the 400 million gallons of conventional biodiesel/renewable diesel from the calculated standards volume.

⁵⁶ Page, 34800 "Since the average retail station will sell about 950 thousand gallons of gasoline in 2017, 800 million gallons of E15 could be sold if about half of the gasoline sold at each of these 1,700 stations was E15."

⁵⁷ https://www.epa.gov/renewable-fuel-standard-program/learn-more-about-notice-data-availability-noda-renewable-fuels

ec.europa.eu/energy/sites/ener/files/documents/Final%20Report_GLOBIOM_publication.pdf

http://www.theicct.org/blogs/staff/unexpected-tax-bill-for-imported-palm-oil-biodieselhttps://www.epa.gov/sites/production/files/2015-08/documents/420f11046.pdf

⁶¹ www.eia.gov/dnav/pet/pet move impcus a2 nus EPOORDB im0 mbbl a.htm

B. Advanced Biofuels Volume

EPA is proposing to again set an aggressive advanced biofuel target in 2017. EPA proposes a 2017 advanced biofuel volume requirement of 4 billion gallons, which is a 600 million gallon increase over the proposed volume of 3.4 billion gallons for 2016. Using EMTS data up to and including May 2016, the 2016 annualized volume for advanced biofuels is approximately 3.2 billion ethanol equivalent RINs.

In the Proposed Rule, EPA applied most, but not all, of its exercise of the cellulosic waiver to the advanced biofuel and total renewable fuel RVOs. Due to the nested nature of the standards, to lower the overall cost of the program to consumers and to make the regulations more achievable, EPA should always extend the full volume of any cellulosic waiver to both the advanced biofuel and the total renewable fuel RVO requirements.

Sugar cane ethanol use has decreased over the last few years. According to data from EIA that show renewable fuel imports from Brazil have decreased down to zero for the first four months of 2016. ⁶² Therefore, EPA should not presume any sugarcane imports in 2017 given the issues associated with the ethanol blendwall. If, however, EPA does presume that some of the advanced biofuel obligation will be met with sugarcane ethanol, it is necessary to consider this volume when assessing the total ethanol that can be consumed in 2017. In other words, given the constraints of the blendwall, EPA should presume any sugarcane ethanol will displace domestic corn ethanol.

Our recommended forecast of advanced biofuel volumes available in 2017 is summarized in the table below. The advanced biofuel volume standard for 2017 should be set at 3.2 billion gallons.

2017 Advanced Biofuel Volume Standard Recommendations

	Billion RINs
Biomass-Based Diesel D4 RINs ⁶³	3.0
Cellulosic Biofuel D3 & D7 RINs	Last 3 months annualized (estimated at 0.2 billion) ⁶⁴
Sugar Cane Ethanol D5 RINs	0.0
Total Advanced Biofuel RINs	3.2

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⁶² U.S. Imports by Country of Origin

https://www.eia.gov/dnav/pet/pet_move_impcus_a2_nus_epooxe_im0_mbbl_m.htm

^{63 63 2.0} billion gallons X 1.5 equivalency value. The biomass-based diesel number is based on the 2 billion gallon mandate that EPA has finalized for 2017. That mandate is currently in litigation. Should the court require EPA to lower the biomass-based diesel volume for 2017, the values for biomass based diesel, advanced, and general renewable in this table should all be adjusted accordingly.

⁶⁴ Based on March, April & May 2016 cellulosic RIN generation per EPA's EMTS website.

C. Cellulosic Biofuels Volume and Concerns with EPA's Methodologies

EPA must conduct a *thorough* and *objective* assessment of likely cellulosic biofuel production for 2017 before setting RFS standards for that year. If EPA overestimates cellulosic biofuel production, it will cause fees to be imposed on obligated parties through no fault of their own, and will likely exacerbate issues that can undermine the stability and effectiveness of the RFS.

To provide some context for our comments below, it is useful to briefly review EPA's previous attempts to estimate cellulosic biofuel production. In several earlier proposals, the Agency has attempted to develop a methodology that can accurately assess the likely cellulosic biofuel production in the upcoming year. Each year EPA has recognized that cellulosic biofuel production would not meet the statutory volumes and has therefore reduced the cellulosic biofuel applicable volume as required by § 7545(o)(7)(D). Despite those reductions, EPA grossly overestimated cellulosic biofuel production every year from the program's inception in 2010 through 2014⁶⁵:

Compliance	Statutory	EPA Projected	Actual	Extent of	
Year	requirement	production	production	EPA Error	
	(gallons)	(gallons)	(gallons)		
2010	100 million	5 million	0	100%	
2011	250 million	6.6 million	0	100%	
2012	500 million	8.65 million	20,069	99.8%	
2013	1 billion	6 million	810,185	86.5%	
2014	1.75 billion	67 million (≤17 million liquid cellulosic; 50 million CNG/LNG)	33.1 million (≤0.83 million liquid cellulosic; 32.6 million CNG/LNG)	95.1% (liquid cellulosic) 50.7% (total cellulosic) ⁶⁶	

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The statutory requirements in this table are set forth in 42 U.S.C. § 7545(*o*)(2)(B)(i)(III). The EPA projected production levels are set forth in the final rules for 2010–2013 and the NPRM for 2013. See 75 Fed. Reg. 14,670 (2010 final rule); 75 Fed. Reg. 76,790 (2011 final rule); 77 Fed. Reg. 1,320 (2012 final rule); 78 Fed. Reg. 49,794 (2013 final rule); 78 Fed. Reg. 71,732 (2014 NPRM). The actual production totals are drawn from EPA's Public Data for the Renewable Fuel Standard website, https://www.epa.gov/fuels-registration-reporting-and-compliance-help/public-data-renewable-fuel-standard, and from two memoranda: Memorandum from Dallas Burkholder, Office of Transportation and Air Quality, EPA, to Air and Radiation Docket EPA-HQ-OAR-2015-0111, Assessment of Cellulosic Biofuel Production from Biogas (2015–2016), at 2 (Apr. 27, 2015); Memorandum from Dallas Burkholder, Office of Transportation and Air Quality, EPA, to Air and Radiation Docket EPA-HQ-OAR-2016-0004, April 2016 Assessment of Cellulosic Biofuel Production from Biogas (2017), at 2 (Apr. 2016).

⁶⁶ EPA's final rule for 2014 has an error rate of 0% because it adopts the actual production level and was published 11 months after the compliance year ended. *See* 80 Fed. Reg. 77,502. The data in the 2014 row above are based on the projected totals set forth in the 2014 proposed rule,

The D.C. Circuit held EPA's 2012 cellulosic biofuel projection was arbitrary and capricious and vacated the 2012 cellulosic biofuel RFS. *API*, 706 F.3d at 474. The Court concluded that the CAA does not allow EPA "to adopt a methodology in which the risk of overestimation is set deliberately to outweigh the risk of underestimation." *Id.* at 479. It further emphasized that EPA acted arbitrarily and capriciously by not "tak[ing] neutral aim at accuracy" in its projection, and that the CAA requires EPA to determine "what will *actually* happen." *Id.* at 476, 479 (emphasis in original). EPA is *not* permitted to "try[] hard to push the envelope" – in direct contradiction with the court's prior admonition. 68

There has been an increase in cellulosic biofuels over the past couple years due to EPA adopting an expanded definition of "cellulosic biofuel." In July 2014, EPA approved a new pathway under which compressed natural gas ("CNG") and liquefied natural gas ("LNG") derived from landfills and similar sources qualify as cellulosic biofuel. *See* 79 Fed. Reg. 42,128 (July 18, 2014). EPA's expansion of the definition of cellulosic biofuel to include CNG/LNG "led to a significant increase in cellulosic RIN generation" beginning "in late 2014." 80 Fed. Reg. 77,499. Indeed, the "vast majority" of the cellulosic biofuel RINs generated in 2014—"approximately 32 million" out of 33 million total—were for CNG or LNG. *Id.* at 77,502 n.209.⁶⁹ The same holds

issued November 29, 2013—one day before the *final* rule for 2014 was due under the CAA. *See* 78 Fed. Reg. 71,732, 71,750–51; 42 U.S.C. § 7545(o)(3)(B)(i). The difference between liquid cellulosic biofuels and total cellulosic biofuels is explained below and results from EPA's approval in July 2014 of a new pathway for renewable compressed natural gas (CNG) and liquefied natural gas (LNG) to be counted as cellulosic biofuel.

⁶⁷ Following the D.C. Circuit's decision, EPA acknowledged that its 2011 cellulosic biofuel requirements was also flawed, and reduced the requirements for 2011, 2012, and 2013 to match the number of cellulosic RINs actually made available for those years. *See*, *e.g.*, 79 Fed. Reg. 25,025 (May 2, 2014) (direct final rule re-setting 2013 cellulosic biofuel standard).

⁶⁸ EPA Newsroom. Speeches by Administrator Gina McCarthy, Remarks at National Corn Growers Association, As Prepared, July 16, 2015.

⁶⁹ EPA has publicly released monthly breakdowns of the number of cellulosic biofuel RINs generated from CNG/LNG in 2014 and 2015. See Memorandum from Dallas Burkholder, Office of Transportation and Air Quality, EPA, to Air and Radiation Docket EPA-HQ-OAR-2015-0111, Assessment of Cellulosic Biofuel Production from Biogas (2015–2016), at 2 (Apr. 27, 2015); Memorandum from Dallas Burkholder, Office of Transportation and Air Quality, EPA, to Air and Radiation Docket EPA-HQ-OAR-2016-0004, April 2016 Assessment of Cellulosic Biofuel Production from Biogas (2017), at 2 (Apr. 2016). However, EPA has not publicly released monthly breakdowns of the number of RINs generated from conventional liquid cellulosic biofuel, and instead has treated this information as confidential business information (CBI). The maximum volume of conventional liquid cellulosic biofuel production can be derived by subtracting the number of RINs reported for CNG/LNG from the total number of cellulosic biofuel RINs reported for each month on EPA's website. See, e.g., EPA, 2015 Renewable Fuel (May 10, 2016), https://www.epa.gov/fuels-registration-reporting-and-Standard Data compliance-help/2015-renewable-fuel-standard-data. The difference between those sums constitutes the maximum number of conventional liquid cellulosic biofuel RINs, rather than the actual number of such RINs, due to production of nontraditional cellulosic biofuels such as heating oil, and due to after-the-fact RIN generation error corrections. Worksheets showing the

true for 2015, as EPA estimated that over 94% of cellulosic biofuel production would be from CNG/LNG for the final three months of the year. See 80 Fed. Reg. 77,506. But for the expansion to include CNG/LNG, EPA's annual error rate in estimating the annual level of cellulosic biofuel production would remain well above 90%. In its NPRM for the 2014 program year, EPA estimated that 17 million gallons of liquid cellulosic biofuel would be produced in 2014. 78 Fed. Reg. 71,748. Actual liquid cellulosic biofuel production in 2014 was at most 0.83 million RINs. 70 Thus, had EPA not amended the definition of cellulosic biofuel by adding the CNG/LNG pathway, EPA's 2014 estimate would have been off by 95.1%. Similarly, while EPA forecast in its 2014-2016 final rule that 2 million gallons of liquid cellulosic biofuel would be produced in the fourth quarter of 2015, see 80 Fed. Reg. 77,505-06, EPA records show that at most 0.58 million gallons were produced during that period. 71 Thus, EPA's estimate—issued in November 2015 for October–December 2015—overshot the mark by at least 71%. The simple truth is that EPA's model is not designed to, and does not in fact, forecast "what will actually happen." API, 706 F.3d at 479.

The Proposed Rule repeats these errors by applying the same methodology for 2017. As in recent years, the Proposed Rule analyzes the CNG/LNG and conventional (liquid) cellulosic biofuel markets separately. EPA's estimates for both fuel sub-categories are arbitrary and capricious, and must be substantially reduced in the final rule.

1. **Estimated Liquid Cellulosic Biofuel Production**

The Proposed Rule estimates that 30 million gallons of liquid cellulosic biofuel will be produced in 2017—more than ten times the amount of liquid cellulosic biofuel produced in 2015. 81 Fed. Reg. 34,806. This estimate is flawed in numerous respects.

2. **Individual Facility Production Ranges**

The Proposed Rule's method for calculating the production ranges for each facility "runs counter to the evidence before the agency" and "is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983). This is so for four reasons.

First, EPA's unquestioning acceptance of producers' projected start-up dates is unreasonable in light of past experience. EPA has consistently erred in forecasting liquid cellulosic biofuel facility start-up dates in prior years. In nearly every case, EPA has adopted start-up dates that prove to be months or years earlier than a facility's actual start-up date.⁷²

Given EPA's long history of adopting overly optimistic projected start-up dates, it is incumbent on EPA to come forward with hard evidence that the start-up dates in the Proposed Rule are

maximum number of conventional liquid cellulosic biofuel RINs for 2014 and 2015 are attached as Appendix C.

See Appendix C (2014 worksheet).
 See Appendix C (2015 worksheet).

⁷² For examples, see Appendix B at 7-8.

grounded in fact and describe "what will *actually* happen." *API*, 706 F.3d at 479. The Proposed Rule fails to carry this burden; indeed, it provides no meaningful evidence that the projected start-up dates it adopts are any more realistic than the start-up dates adopted in prior years. Nor does EPA factor into its analysis the possibility that new liquid cellulosic plants will repeatedly miss their target start-up dates for years on end, as the Cool Planet, DuPont, and Poet-DSM plants have.

Second, EPA's use of a six-month ramp-up to expected capacity is unreasonable in light of past experience. See 81 Fed. Reg. 34,805. EPA has produced no evidence that a six-month ramp-up period is reasonable, and so far as API is aware, no liquid cellulosic biofuel facility capable of producing commercial-scale quantities of fuel has ever reached planned capacity within six months. Indeed, as of December 2015, "[n]o biofuel startups have managed to produce a next-generation biofuel at commercial scale in the U.S.," period. The record shows that many facilities take a year or more to reach even a fraction of design capacity. The record shows that many facilities take a year or more to reach even a fraction of design capacity.

It is true that the Proposed Rule employs a six-month ramp-up only to compute "the high end of the projected production range for each group of companies." 81 Fed. Reg. 34,805. But EPA has offered no evidence that a six-month ramp-up period is attainable even under the best of circumstances. Despite the abundance of data on ramp-up periods from past years, the Proposed Rule does not cite one example in which a facility achieved substantial production within six months of initial production. Even if EPA could identify a handful of instances in which a facility did ramp up to full capacity within six months, that data would need to be balanced against the considerable data showing that it takes facilities years to ramp up to meaningful production, and against the data showing that facilities often go out of business before generating *any* cellulosic biofuel RINs.

Third, EPA failed to consider the possibility that facilities would encounter difficulties that cause them to fall below prior production levels, or even to zero. *See* 80 Fed. Reg. 77,503–05 (setting the low end of the range for companies with "consistent commercial scale production" at a level equal to those companies "actual production volumes" over the preceding 12-month period). This omission is unreasonable given the considerable evidence that cellulosic biofuels producers are often unable to sustain production levels over extended periods. ⁷⁶

The Proposed Rule incorporates by reference the methodology used in EPA's final rule for 2014–2016, see 81 Fed. Reg. 33,804, which concedes that "the low end of the range does not necessarily represent a worst-case scenario," 80 Fed. Reg. 77,503. Indeed, "[t]he worst-case scenario for any" facility "is no production." *Id.* Yet in spite of these concessions and the data above, EPA nevertheless concludes that "it is generally appropriate to use the production over

⁷⁶ For examples, see Appendix B at 9-11.

⁷³ Katie Fehrenbacher, *How Tech Billionaire Vinod Khosler's Biofuel Dream Went Bad*, Fortune (Dec. 15, 2015), http://fortune.com/kior-vinod-khosla-clean-tech/.

⁷⁴ For examples, see Appendix B at 7-8.

⁷⁵ In fact, EPA has even acknowledged there has been a "history of start-up delays and missed production targets in the cellulosic biofuels industry." 80 Fed. Reg. at 77,503.

the previous 12 months as the low end of the range." *Id.*; *see also* 81 Fed. Reg. 34,805 ("The low end of the range for each group . . . reflects actual RIN generation over the last 12 months for which data are available."). EPA's view of what is "generally appropriate" is not consistent with the facts or with the CAA's command that the agency take "neutral aim at accuracy." *API*, 706 F.3d at 724. The Proposed Rule cites no data in support of its approach, and the record overwhelmingly shows that the low end of a facility's future production range is *not* the facility's production over the past year. ⁷⁷

EPA should remedy this error by adopting zero as the low end of the expected range for each conventional liquid cellulosic biofuel facility. Such an approach would better harmonize with past experience and better predict "what will *actually* happen" in the future. *API*, 706 F.3d at 479.

Fourth, the Proposed Rule ignores completely several producers that EPA has relied upon in prior rulemakings, but which went out of business or have been unable to produce meaningful volumes of liquid cellulosic biofuel. The Proposed Rule (and its supporting memorandum) do not acknowledge or discuss Cool Planet and INEOS Bio, two firms that EPA relied upon in fashioning its final rule for 2016. See 80 Fed. Reg. 77,508. As discussed in Appendix B, neither of these firms has produced cellulosic biofuel RINs in recent years, and neither of them is expected to begin producing such RINs any time soon. Nor does the Proposed Rule "reflec[t] on" the failures of other liquid cellulosic biofuel producers in past years, despite the abundance of available and highly relevant data. API, 706 F.3d at 427. An agency seeking to take "neutral aim at accuracy," id., may not bury its head in the sand in this fashion. 80

* * *

In each of these respects, EPA's failure to take account of past "experience" and to "reflec[t] on the success of earlier [projections]" constitutes arbitrary and capricious decision making. *API*, 706 F.3d at 427; *see also State Farm*, 463 U.S. at 29 (rule invalid where agency has "entirely failed to consider an important aspect of the problem" or "offered an explanation that runs counter to the evidence before the agency").

3. 25th Percentile Model for Forecasting Production by "New" Facilities

EPA's assumption that new facilities with no track record of RIN generation will produce cellulosic biofuel volumes in the 25th percentile of that facility's estimated production range is unreasonable and contrary to the record. *See* 81 Fed. Reg. 34,806.

⁷⁷ The roster of companies that once produced liquid cellulosic biofuel, but are no longer in business, illustrate the point. Together, EPA's final rules for 2010 through 2013 list numerous companies that fall into this category.

⁷⁸ For examples, see Appendix B at 11-12.

⁷⁹ Memorandum from Dallas Burkholder, Office of Transportation and Air Quality, EPA, to Air and Radiation Docket EPA-HQ-OAR-2016-0004, *April 2016 Assessment of Cellulosic Biofuel Production from Biogas (2017)*, at 2 (Apr. 2016).

⁸⁰ For further discussion, see Appendix B at 13-14.

EPA provides no factual support for the 25th percentile method, which amounts to an assumption that new facilities will produce at approximately 23.5% of design capacity. ⁸¹ Historically, new facilities produce at approximately 3 percent of capacity. In fact, industrywide, cellulosic biofuel facilities—new and established—failed to reach 3 percent of capacity in 2015. ⁸² Among other things, EPA failed to consider whether a 10th percentile of 5th percentile model would better explain the available data.

EPA should rectify this error by adopting a percentile model that is in line with the record. The data above shows that 2.8% of capacity is a more accurate estimate for cellulosic biofuel production from facilities without a proven production track record. Applying this model to the aggregate design capacity of 51 million gallons for facilities without prior commercial-scale production would yield an estimate of 1.4 million gallons of cellulosic biofuel production in 2017 for new liquid cellulosic biofuel producers, rather than the projection of 12 million gallons included in the Proposed Rule. See 81 Fed. Reg. 34,806.

4. 50th Percentile Model for Forecasting Production By "Established" Facilities

EPA's assumption that facilities with "consistent commercial scale production" will produce in the 50th percentile of their estimated production range is equally invalid. As with the 25th percentile method, EPA provides no factual support for its approach, and the approach is contrary to record evidence from prior program years. Indeed, the 50th percentile model bears no relationship whatsoever to the available data. 85

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This calculation is based on the reported design capacities for DuPont (30 million gallons) and GranBio (21 million gallons). A precise calculation is impossible because the Proposed Rule does not provide a design capacity for Edeniq, the third firm in the new-producer data set. *See* 81 Fed. Reg. 34,805 (stating "various" as Edeniq's "Facility capacity"). API is unable to construct an estimate for Edeniq because the record material pertaining to Edeniq's production is designated as CBI. *See*, *e.g.*, Edeniq Call Notes 3.10.16,

https://www.regulations.gov/#!documentDetail;D=EPA-HQ-OAR-2016-0004-0023. Thus, the utilization rate given above thus assumes that Edeniq's capacity is zero.

⁸² According to the 2014–2016 final rule, design capacity was at least 105 million gallons in 2015, excluding facilities for which no specific capacity was provided (e.g., Edeniq) or for which production was not expected to begin until 2016. *See* 80 Fed. Reg. 77,501. The maximum possible level of actual liquid cellulosic biofuel production was 2.3 million gallons, or 2.2 percent of industry-wide design capacity.

percent of industry-wide design capacity.

83 This ratio is based on the highest industry-wide production rate since the cellulosic biofuel program began in 2010—2.8% of cumulative design capacity in the fourth quarter of 2015.

⁸⁴ See, e.g., National Renewable Energy Laboratory, Technical Report, 2015 Survey of Non-Starch Ethanol and Renewable Hydrocarbon Biofuels Producers, at 5 (Jan. 2016), available at http://www.nrel.gov/docs/fy16osti/65519.pdf; Robert Rapier, Cellulosic Ethanol Falls A Few Billion Gallons Short, Energy Trends Insider (Feb. 13, 2016),

http://www.energytrendsinsider.com/2016/02/13/cellulosic-ethanol-falls-a-few-billion-gallons-short/; Katie Fehrenbacher, *How Tech Billionaire Vinod Khosler's Biofuel Dream Went Bad*, Fortune (Dec. 15, 2015), http://fortune.com/kior-vinod-khosla-clean-tech/.

⁸⁵ For a further discussion on this issue, see Appendix B at 18-19.

Based on the data discussed in Appendix B, and accounting for the possibility (albeit unlikely) that liquid cellulosic biofuel producers will produce at a higher overall rate in 2017 than in prior years, a proper substitute model would use 10% of the "established" producer group's cumulative capacity. Only a handful of firms have reached production rates above 10% in recent years, and EPA has provided no evidence that these small firms (e.g., Quad County Corn Producers) are representative of the "established" producer group as a whole. Moreover, a model using 10% of the "established" producer group's capacity vastly outperforms the Proposed Rule's 50th percentile model when applied to the data for 2010–2015 shown above. This model would generate an expected production volume from the "established" producer group of 2.9 million gallons in 2017, rather than the projection of 18 million gallons included in the Proposed Rule. See 81 Fed. Reg. 34,806.

5. Additional Issues

The Proposed Rule's forecast for liquid cellulosic biofuel also fails on other grounds. *First*, EPA's estimate for liquid cellulosic biofuel (30 million gallons) is out of step with the EIA's estimates for recent years. For example, EPA's estimate for 2016 (23 million gallons) was more than double the estimate set forth by the EIA for 2016 (10 million gallons). While the EIA projection for 2017 is not yet available, given EPA's substantial increase in the volume estimate for 2017, EPA is likely to have an estimate significantly, and unreasonably, higher than EIA's estimate. EPA has consistently departed upwards from EIA's estimates in the past, *see*, *e.g.*, 77 Fed. Reg. 1,328–29, and in each instance this departure has made EPA's estimate more inaccurate than it would have been had EPA stuck with EIA's estimate.

Second, the CAA requires EPA to obtain the required EIA estimates for cellulosic biofuel production and place it in the docket for this rulemaking. See 42 U.S.C. § 7525(o)(7)(D)(i). These estimates are not only mandated by the statute, but they are intrinsic to the calculation of annual percentage standards. It is well settled that "[a]n agency commits serious procedural error when it fails to reveal . . . the technical basis for a proposed rule in time to allow for meaning commentary." Connecticut Power & Light Co. v. Nuclear Regulatory Comm'n, 673 F.2d 525, 530-31 (D.C. Cir. 1982); see also Chamber of Commerce of U.S. v. SEC, 443 F.3d 890, 901-06 (D.C. Cir. 2006) (vacating a rule on that basis). EPA's failure to obtain and publish the EIA estimates for cellulosic biofuel production renders the cellulosic biofuel volume requirements for 2017 arbitrary and capricious, notwithstanding EPA's statement that is "anticipate[s] considering these estimates . . . for the final rule."

Third, EPA has not provided sufficient transparency on data that form the central basis for EPA's liquid cellulosic biofuel projections. EPA has withheld call notes, production data, and other key materials for liquid cellulosic biofuel producers, claiming that this information is CBI. EPA needs to improve its transparency when establishing the cellulosic biofuel mandate, and, at minimum, provide sufficient information on which the public can provide meaningful comments.

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⁸⁶ In the aggregate, the data-driven projection models recommended in this comment forecast actual liquid cellulosic biofuel production of 4.3 million gallons in 2017.

⁸⁷ 81 Fed. Reg. 34.803.

6. CNG/LNG Cellulosic Biofuel Production Estimate

Because CNG/LNG biogas will be providing the overwhelming majority of cellulosic RINs during 2017, the Agency must provide a much more transparent analysis of its determinations. Much of the significant information underlying that analysis has been designated as Confidential Business Information (CBI). Within such constraints, EPA must, however, support its analysis of the availability of such fuels in order to facilitate the opportunity for public comment. This is especially true because of the much larger population of facilities (at least 37) and the vastly larger volumes expected by EPA for biogas fuels in 2017 (148-217 million gallons), which could result in a sizeable overestimation of actual volumes that will generate RINs. EPA's current analysis of these larger volumes fails the "neutral aim at accuracy" standard that was set forth by the D.C. Circuit.

Furthermore, EPA's projection of CNG/LNG includes several invalid assumptions in the estimation of potential future volumes. Specifically, the Proposed Rule uses a 50th percentile estimate of production for facilities that have not yet generated a cellulosic biofuel RIN. This approach is overly optimistic for the following reasons:

- Not all new facilities are capable of producing transportation-grade biogas. Of the approximately 640 US landfill biogas projects, it is estimated that less than 8% produce a high BTU gas capable of being upgraded into a transportation-grade biogas. 88,89 An even smaller percentage of high BTU projects exist for digester and other biogas projects.
- Facilities producing biogas-derived cellulosic fuel need to be located near an existing pipeline to enable movement to areas where biogas-derived cellulosic fuel will be utilized by the transportation fleet. Since most biogas-derived cellulosic fuel is consumed in California, pipeline transportation is required (except for small quantities currently used in local fleet use). It is unreasonable to assume that all facilities not currently generating cellulosic biofuel RINs would be located near a pipeline.
- There are alternative uses and competition for biogas-derived cellulosic fuel. State renewable portfolio standards (RPSs) require an increasing amount of renewable electricity. One cost-effective method of meeting the RPS requirements is through the use of biogas to generate electricity. Also, many biogas facilities use at least a portion of the generated biogas to generate local power. Any additional existing capacity would need to be diverted away from these uses.
- Generating cellulosic RINs from RNG requires additional recordkeeping and reporting
 after the RNG is produced to document that it is used as a transportation fuel. This is an
 additional burden that can be a deterrent from generating additional RINs as the volume

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⁸⁸ Biogas Opportunities Roadmap, US Department of Agriculture, Aug 2014

⁸⁹ EPA Landfill Methane Outreach Program,

http://www.epa.gov/lmop/documents/xls/opprjslmopdata.xlsx, Last Available July, 2015

of RNG in the market continues to grow. In other words, growth in RNG volume may not translate directly into proportional growth in RIN generation.

Given these factors, a more appropriate method for estimation of cellulosic-derived biogas RINs is to look at historic proven RIN generation and project cumulative volumes. ⁹⁰

* * *

The above discussion underscores the need for EPA to use credible data inputs in its analysis of potential cellulosic biofuel volumes. Instead, EPA continues to rely upon calculations using unsupported assumptions and estimates provided by cellulosic producers to generate production estimates. Indeed, EPA continues to accept production forecasts from cellulosic biofuel manufacturers even though these forecasts have been wrong every year. In a recent example, the Coalition for Renewable Natural Gas estimated that August 2014 to December 2014 Cellulosic Biogas Production would be 69 million equivalent gallons, 91 more than twice the actual production of 32 million equivalent gallons during that period. In this RFS proposal, EPA is basing its projections on input collected from the Coalition for Renewable Gas.

Data on EPA's EMTS shows 140 million RINs were generated from renewable natural gas in 2015. Through May 2016, EMTS shows about 62 million RINs have been generated this year, roughly equating to an annual average of 150 million RINs. The EPA forecast for 2017 of 284 million RINs is almost double the historic rate over the past 17 months. We continue to recommend that EPA use historical production data when setting the annual cellulosic biofuel standard. Otherwise, the Proposed Rule will fail to "take neutral aim at accuracy."

D. Total Renewable Volume for 2017

Based on the issues raised in the above comments API recommends the Final RFS volumes be based on the following volumetric requirements:

	Billion RINs
Cellulosic Biofuel	0.2
Biomass-based Diesel ⁹²	3
Advanced Biofuel	3.2
Conventional Renewable	13.92
Total Renewable Fuel	17.12

⁹⁰ For a further discussion on this issue, see Appendix B at 19-20.

⁹¹ Presentation by Coalition for Renewable Natural Gas, Waste to Biogas & Clean Fuels Finance & Investment Summit, Santa Clara, CA March, 2015.

⁹² 2.0 billion gallons X 1.5 equivalency value. The biomass-based diesel number is based on the 2 billion gallon mandate that EPA has finalized for 2017. That mandate is currently in litigation. Should the court require EPA to lower the biomass-based diesel volume for 2017, the values for biomass based diesel, advanced, and general renewable in this table should all be adjusted accordingly.

III. Biomass-Based Diesel (BBD) Volume for 2018

The RFS specifies a timeframe and requires a rigorous analytical review (six factor analysis discussed later) for increasing the biomass based diesel volume standard; EPA needs to adhere to these requirements. EPA's proposal to set the 2018 BBD volume at 2.1 billion gallons lacks the required comprehensive analysis and could lead to consequences contradictory to the objectives of the RFS.

A. Lead time requirement

CAA section 211(o)(2)(B) specifies the volumes for the categories of total renewable fuel, advanced biofuel, and cellulosic biofuel that must be consumed through calendar year 2022. For biomass-based diesel, however, section 211(o)(2)(B)(i) does not prescribe specific statutory volumes after 2012. Instead, CAA section 211(o)(2)(B)(ii) sets a 1 billion gallon floor and requires EPA to establish the biomass-based diesel volume requirements based on an analysis of six statutory criteria (*i.e.*, environmental impact, energy security, expected production, impact on infrastructure, cost to consumers, and certain other factors such as food prices and rural development). CAA section 211(o)(2)(B)(ii) expressly requires EPA to provide 14-months lead time when establishing such requirements. Specifically, under this provision:

The Administrator shall promulgate rules establishing the applicable volumes under this clause no later than 14 months before the first year for which such applicable volume will apply. 93

EPA can comply with the 14 month lead-time requirement by finalizing the proposed rule by October 31, 2016. If it fails to meet that deadline, it cannot increase the biomass-based diesel levels beyond the last year for which it met this deadline, which, as explained below, was the 2013 level of 1.28 billion gallons.

EPA was required to have determined the 2014 biomass-based diesel applicable volume by October 31, 2012, the 2015 volume by October 31, 2013, the 2016 volume by October 31, 2014, and the 2017 volume by October 31, 2015. EPA failed to meet any of these deadlines. Compliance with the statutory lead time requirements for these years now is impossible. EPA also has not undertaken an adequate analysis of the six factors specified in CAA section 211(o)(2)(B)(ii) for 2014-2017, for the same reasons it has failed to conduct an adequate analysis for 2018.

Noncompliance with the statutory schedule and EPA's lack of examination regarding the six statutory factors raise the issue of what level of biomass-based diesel can be required in 2018. In this regard, section 211(o)(2)(B)(ii) is clear: EPA cannot alter its most recent determination for 2013 of 1.28 billion gallons, because this is the highest volume for which obligated parties have had the requisite advance notice and an opportunity to comment on EPA's application of the six statutory criteria. While EPA could potentially meet the timing requirements for 2018, if it

⁹³ 42 U.S.C. § 7545(o)(2)(B)(ii).

⁹⁴ We note that even using the 2013 determination would not explicitly satisfy the requirement of CAA section 211(o)(2)(A)(ii) that the Administrator determine applicable volumes for "calendar

finalized the proposed rule by October 31, 2016, the proposed rule's failure to adequately consider the six factors specified in the CAA would preclude increasing the level beyond the 2013 level of 1.28 billion gallons. Any higher applicable volume for biomass-based diesel (or percentage standard based on this volume) for 2018 would be contrary to the plain language of the statute.⁹⁵

B. Six Factor Analyses

Even if EPA were to meet the deadline, it has not undertaken an adequate analysis of the six factors specified in CAA section 211(o)(2)(B)(ii) for 2018. Consideration of these factors is a statutory prerequisite to revising the applicable volume of biomass-based diesel for years after 2012. When EPA increased the BBD volume to 1.28 billion gallons for 2013, it concluded review of actual implementation, at the time, was of "limited value" because the RFS had a short history. Now, with a longer history of the RFS, EPA is in a better position to conduct a more rigorous analysis.

Although EPA has attempted an analysis of the six specified factors, EPA's analysis is woefully inadequate and ignores information relevant to implementation and impacts of the RFS. Instead, EPA relies on the approach that the 2018 advanced biofuel volume requirement will determine the level of BBD production and import regardless of where the BBD volume requirement is set. Therefore, before EPA conducts the six factor analysis, EPA's approach marginalizes BBD volume increases and, because EPA continues to rely on final rulemaking from 2010, EPA does not uncover negative impacts of increasing the BBD volume. It should be noted that the RFS RIA in 2010 was based on 1.5 billion gallons of biomass based diesel, a 31% lower volume than the proposed 2018 standard of 2.1 billion gallons.

EPA should, for example consider new studies on biomass-based diesel impacts on air quality, GHGs, water use, fertilizer run-off into the Gulf of Mexico, food prices, as well as energy security (in light of the reliance upon imported fuel). The Agency should also consider land use impacts and whether it is appropriate to continue to exempt domestically-produced crop-based biofuels like soy-based biodiesel (and corn-based ethanol) from EISA's land use restrictions especially given recent information indicating that EPA's assumptions underlying that exemption were incorrect. ⁹⁶

years after the calendar years specified in the tables" since EPA's determination was with respect to the year 2013 only.

⁹⁵ For further discussion on the Biomass-Based Diesel Standard for 2018, see Appendix B at 5-7.

⁹⁶ EISA requires that renewable fuels be produced from renewable biomass. The law further restricts the definition for crop-based renewable fuels to crops from land that was in agricultural use as of the date of enactment of EISA. However, in the original RFS2 rulemaking, EPA effectively exempted domestic crop-based biofuels from this requirement based on the assumption that there would be no new crop-land created. Recent reports including a University of Wisconsin study (http://m.iopscience.iop.org/1748-9326/10/4/044003/article) and an Associated Press investigation (http://bigstory.ap.org/article/secret-dirty-cost-obamas-green-power-push-1) indicate this was an invalid assumption.

Because it has failed adequately to analyze these factors, EPA may not increase the 2018 levels above the last year for which it properly promulgated a biomass-based diesel standard, which was 2013.

Six factors for EPA to address in increasing biomass-based diesel volume:

- 1. Environment: EISA does not require EPA to rely on initial rule-making for subsequent assessments. In fact, the purpose is to review information that may become available. Science has evolved since EPA's 2010 RIA and additional studies are available on the environmental impacts of biodiesel (GHGs, air quality, etc,) including the 2016 European Commission study referenced earlier. ⁵⁸ EPA should take into consideration constraints and limitations of other advanced renewable fuels and new environmental information related to biomass-based diesel and compare with findings from 2010, not just rely on 2010 findings.
- 2. Energy Security: The U.S. is less reliant on imported oil now than when EISA was enacted and the RFS has "played only a small part in reducing projected net import dependence" according to the Deputy Administrator of the EIA, who also said reliance on oil imports is "significantly lower" and reductions in net imports are primarily driven by increased domestic petroleum production and reduced petroleum demand. 98
- 3. Expected annual rate of future commercial production of renewable fuels: To date, corn-ethanol and biomass-based diesel have been the two primary fuels utilized for compliance with the RFS, and based on current state of technology, these two fuels will continue to be the primary fuels utilized for compliance with the RFS. However, both of these fuels face real world constraints as the fuel pool becomes saturated with volumes that are compatible with existing infrastructure (i.e. E10 and B5). This saturation could likely cause barriers that must be overcome by other renewable fuels.
- **4. Impacts of renewable fuel on infrastructure:** The RFS has been ineffective in its ability for mandated renewable fuel volumes to effect infrastructure changes. The ethanol blendwall occurs at 10 volume percent and biodiesel blending limits effectively occur at 5 volume percent. EPA has acknowledged real word constraints that exist and are barriers to renewable fuel consumption. In EPA's justification for utilizing its general waiver authority, these real world constraints limit the supply of renewable fuels, including biomass-based diesel.
- 5. Impacts of renewable on cost to consumers: The Deputy Administrator of the EIA testified to congress that "biodiesel is significantly more costly than petroleum-based diesel under recent market conditions. Between August 2015 and January 2016, the

⁹⁷ Howard Gruenspecht, Deputy Administrator, Energy Information Administration Before the Committee on Environment and Public Works. February 24, 2016

⁹⁸ Howard Gruenspecht Deputy Administrator, Energy Information Administration. Statement before the House of Representatives Committee on Energy and Commerce Subcommittee on Energy and Power, June 22, 2016

difference between the Gulf Coast spot market prices of biodiesel and petroleum-based diesel averaged \$1.25 per gallon." EPA's own analysis as part of this rule-making concludes that fuel costs will increase as a result of the RFS. However, the EPA analysis is likely an underestimate of actual costs to the broader economy because EPA only focuses on the wholesale level. By EPA's own approach to inadequate domestic supply in using its waiver authority, this is an insufficient analysis because it does not measure the costs of actual renewable fuel consumption.

6. Impacts of renewable on other factors (i.e. agricultural commodities, rural economic development): In the U.S., soybean oil is the single largest feedstock input to biodiesel production. The implications of increasing BBD requirements and impacts on direct land use and soybeans should be considered. For example, adjusted for energy density, soybean based biodiesel energy production (Btu per acre) is less than ½ of corn based ethanol Btu production. So in terms of land use requirements, the biodiesel volume mandate is relatively large when compared to renewable fuel produced from corn starch ethanol.

C. Cost Impacts of Proposed Standards

In EPA's "Illustrative Costs" memo, EPA has conducted a woefully inadequate assessment of the cost impacts of its proposed standards for 2017.

First, EPA presents only three illustrative scenarios, but leaves out another important scenario. EPA should include the scenario where biodiesel / renewable diesel is used to cover both the advanced and remaining conventional renewable beyond E10 and the de minimus volumes of E10+. EPA should evaluate this scenario based on EMTS data in 2014 and 2015. The ethanol blendwall constraints that exist have resulted in increasing volumes of biodiesel/renewable diesel D6 and D4 RINs and declining D5 RINs.

Secondly, EPA's illustrative cost analysis stops at the point of producing and delivering renewable fuel to the blender, as EPA focuses on the wholesale level. As analyzed, this approach is meaningless and falls short of actually measuring the costs and economic impacts of achieving objectives of the RFS. This approach is inconsistent with EPA's justification for using general waiver authority in setting renewable fuel standards for 2014-2016. As EPA¹⁰⁰ discussed in RFS 2014-2016 final rule making, renewable fuel must be "used to replace or reduce the quantity of fossil fuel" to be part of the supply. Biofuel availability by itself (i.e. at the wholesale level) is not considered as renewable fuel if it is not consumed. EPA's illustrative approach focuses on wholesale level and ignores significant cost factors (i.e. infrastructure, energy density penalty, and other constraints) required for actual consumption of renewable fuels. It is important to take these cost factors and economic impacts into consideration because, unless actually consumed, renewable fuels do not achieve objectives of the RFS.

¹⁰⁰ Federal Register /Vol. 80, No. 239 /Monday, December 14, 2015 /Rules and Regulations

⁹⁹ Howard Gruenspecht, Deputy Administrator, Energy Information Administration Before the Committee on Environment and Public Works. February 24, 2016

D. Implications of Biomass-Based Diesel Requirements within Nested Standards.

Because the BBD standard is nested within the advanced and total renewable fuel standards (i.e. a sub-mandate), increasing the BBD standard above 1.28 billion gallons has a limited ability to help meet fundamental objectives of the RFS. EPA¹⁰¹ has previously acknowledged the BBD volumes responded to advanced and / or total renewable fuel requirements. EPA has previously stated that competition among market participants is good¹⁰². In increasing BBD volume EPA attempts to strike a balance between supporting BBD volumes and other advanced biofuels. Increasing the BBD sub-mandate, above 1.28 billion gallons and within the nested structure is not irrelevant, and EPA should not increase the BBD above 1.28 billion gallons.

The agency's proposal to increase the BBD sub-mandate potentially interferes with market competition. It is not a requirement for EPA, per statutory authority, to encourage production and consumption of any specific biofuel over another biofuel.

BBD production capacity and capacity utilization within the U.S. have remained relatively stagnant in recent years. According to the Energy Information Administration¹⁰³, annual biodiesel production capacity has averaged 2.1 billion gallons between 2011 and 2015. During the same time period, capacity utilization has been in a range of 20.1% to 72.6%. Domestic production of biodiesel reached a peak of nearly 1.4 billion gallons in 2013 and declined to less than 1.3 billion gallons in 2014 and 2015. During this same time period, the U.S. switched from being a net exporter to a net importer of biodiesel. EPA's approach of increasing BBD is most likely encouraging imported BBD, which does not necessarily lead "...toward greater energy independence and security...", a stated purpose of EISA.

Increasing the BBD sub-mandate does not change the total ethanol equivalent RIN volume. Although CAA requires EPA to establish the BBD category requirement in advance of the other renewable fuel categories, setting the volumes and annual percentage standards should not be conducted in isolation. For 2017, EPA has acknowledged real-world constraints and limitations that exist for distribution, blending and dispensing infrastructure. Simultaneously, EPA is looking to the market to determine how compliance is achieved through the use of ethanol and non-ethanol fuels. Thus, EPA's biomass-based diesel proposal for 2017 contains inconsistencies and could result in unintended consequences (i.e. economies of scale that may exist with a more flexible standard are potentially undercut by the increased sub-mandate).

E. Feedstock Availability

EPA should not set volumes, either advanced or biomass-based diesel, that could require 2.5 billion gallons of biodiesel for 2018 as suggested by the National Biodiesel Board (NBB). There are inadequate supplies to meet this standard without potentially requiring a drawdown of carry-over RINs or causing disruptions to feedstock supplies.

http://www.eia.gov/biofuels/biodiesel/production/archive/2016/2016_03/biodiesel.cfm

¹⁰¹ Federal Register / Vol. 80, No. 111 / Wednesday, June 10, 2015 / Proposed Rules

¹⁰² Federal Register / Vol. 80, No. 239 / Monday, December 14, 2015 / Rules and Regulations

Domestic biodiesel production capacity is too small. Between 2011 and 2015, domestic biodiesel production annual capacity has averaged 2.1 billion gallons and monthly production capacity utilization averaged 55%. Even with EPA's implementation of the RFS, the EIA reported that domestic biodiesel production peaked at 1.4 billion gallons in 2013.

Registered biodiesel production is unproven and likely too small. EPA reports in the proposed rule that registered biodiesel production for the RFS is around 2.7 billion gallons. Therefore it would require the industry to run at an average capacity utilization of 93% for a year to generate 2.5 billion gallons. In review of data on EPA's EMTS website, monthly biodiesel RIN generation has never reached 93% capacity utilization for even a single month. In recent years, capacity utilization has mostly been within the 60% to 80% range. Over the entire EMTS data base, the highest 12 consecutive month average for capacity utilization is 75%, which is far short of achieving 2.5 billion gallons. EPA points to limiting factors at registered biodiesel production facilities related to idled plants and availability of viable feedstocks.

Feedstock supply disruptions: EPA provides sound reasoning for focusing on soybean oil as a feedstock for biodiesel volume above 1.28 billion gallons. Data published by EIA 104 reports that soybean oil is the single largest feedstock input for biodiesel production and according to USDA 105 data, soybeans are the largest crushed oilseed in the U.S. Producing biodiesel from soybean oil is more land intensive than producing ethanol from corn 106 and potential bushel and acreage implications of increasing biodiesel above 1.28 billion gallons are illustrated in the table below. Compared to recent actual soybean production, increasing the biodiesel volume mandate could result in relatively large changes. For example, increasing the biodiesel volume from 1.28 to 2.5 billion gallons could require an additional 820 million bushels of soybeans and up to an additional 18 million acres.

BBD volume (billion gallons)	gal/bushel	soybean production (billion bushels)	yield (bu/ac)	harvested acres (million)
1.28	1.5	0.85	45	19.0
2.00	1.5	1.33	45	29.6
2.50	1.5	1.67	45	37.0
*2012-2015 avera	ge	3.6	45	79.2

Annual soybean crushing capacity in the U.S. is around 1.8 billion bushels per year producing around 20 to 22 billion pounds of soybean oil. The portion of soybean oil being used for biodiesel production (methyl ester) has increased from around 9% in 2005 to 28% in 2015. Food

http://www.eia.gov/biofuels/biodiesel/production/ http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1902

Conversion assumptions for biodiesel (1.5 gallons per bushel and 45 bushels per acre) and corn (2.8 gallons per bushel and 170 bushels per acre).

use is the primary destination for soybean oil in the U.S., as it is the "most predominant¹⁰⁷, source of food oil. Increasing the biodiesel volume mandate would require a larger diversion of soybean oil away from food use and / or U.S. export markets. Research indicates that global vegetable oil markets are well connected and fungible¹⁰⁸. In the case of Europe, palm oil is the marginal oil that fills any domestic shortfall and contributes to indirect land use change emissions. To the extent that diverted soybean oil creates a gap for food oil and / or reduced U.S. exports, EPA should carefully consider the potential negative impacts of how the gap is filled.

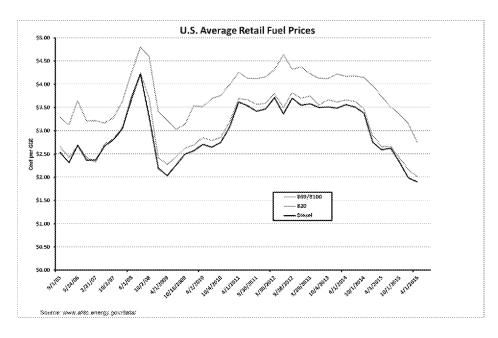
F. Vehicle constraints and consumer preference

API fundamentally agrees with EPA's assessment of potential limits on the growth of biodiesel and renewable diesel consumption capacity from the perspective of vehicle constraints and consumer preference. As EPA notes in the Preamble of the proposed rule, both the Federal Trade Commission and the ASTM International Specification for diesel fuel (ASTM D975) allow for biodiesel concentrations of up to five volume percent (B5) to be sold as diesel fuel. No separate labeling is required for blends containing up to B5 at the retail pump, so these blends are indistinguishable from petroleum-based diesel to the consumer. While many of the makers of passenger car and light truck diesel models offered for sale in the US warrant their vehicles for operation on B5 or less, the vast majority of diesel fuel in the US is consumed by heavy duty vehicles and non-road engines. Although a number of heavy-duty diesel engine OEMs have, in recent years, begun to upgrade and warrant their engine models to operate on biodiesel blends containing up to 20 volume percent (B20), it is important to recognize that heavy-duty vehicle and non-road engines have extremely long service lives (~500,000+ miles), and therefore fleet turnover will serve to constrain the overall growth in consumption of blends containing biodiesel in excess of 5% by volume.

The relative pricing of B20 versus petroleum diesel also may continue to limit consumer acceptance of biodiesel and renewable diesel blends greater than B5. The chart below shows that, on an energy equivalent basis, the price of B99/B100 has historically always been higher than petroleum diesel. Consequently, the price of B20 also has generally been higher than petroleum diesel, albeit less so because of the use of biodiesel as a blendstock.

http://www.theicct.org/sites/default/files/publications/ICCT_vegoil_and_EU_biofuel_mandate 20130211.pdf

¹⁰⁷ http://www.soyconnection.com/newsletters/soy-connection/health-nutrition/articles/Why-Soybean-Oil-Is-Called-Vegetable-Oil



While the price difference has been small on a percentage basis, it is important to note that the vast majority of the consumers of highway diesel fuel are commercial truck owners/operators for whom fuel costs are a significant component of overall operating costs.

IV. Point of RFS Obligation

API opposes moving the point of RFS obligation. Changing the point of obligation will not fix the blendwall problem or meaningfully impact the overall volume of renewable fuels. A change to the point of RFS obligation will create uncertainty in the RIN market and will complicate the administration and function of the RFS program.

Moving the point of RFS obligation does not alleviate the infrastructure constraints throughout the distribution system. E15 and E85 will still face the current infrastructure hurdles, including retail equipment compatibility. The current RFS structure does not prevent renewable infrastructure investments, and as EPA recognized in the 2014 – 2016 RFS proposal, renewable producers are free to make such investments. Moving the point of obligation also will not address consumer behavior as the significant issue of vehicle compatibility will remain. E15 will continue to face significant hurdles including potential liability, and E85 will still be limited to FFVs. Changing the point of obligation will only shift the compliance responsibility to a different group of RFS participants.

In implementing the RFS, Congress directed EPA to promulgate regulations that "contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate." Based on EPA's consideration of numerous factors, EPA placed the point of RFS obligation where gasoline and diesel are refined or imported. EPA recognized that some obligated parties, including merchant refiners, did not control the downstream blending of ethanol or other biofuels, and would need to have access to RINs. EPA addressed this concern by including provisions in the rule allowing obligated parties the unique ability to separate RINs for biofuels, and limited the amount of RINs that can be carried over, in part to make RINs more

accessible in the market. EPA reconsidered the issue following the enactment of EISA, and decided not to change the point of obligation in that rulemaking.

Changing the point of RFS obligation would create uncertainty in the RFS program and in the RIN market. RFS compliance plans, investments and commercial agreements that were premised on the current structure would be disrupted. Such a major structural change nine years into the program creates uncertainty about other critical components of the program. The incentive for refiners to develop drop-in biofuels would diminish; and these fuels are not limited by the constraints of the ethanol blendwall.

Changing the point of obligation would increase the complexity for EPA to administer and enforce the program, as the number of obligated parties would increase. The increased complexity affects the fuel distribution industry as the identification of obligated fuels becomes more difficult. The current RFS structure already includes provisions to facilitate compliance for all obligated parties, including the ability for obligated parties to separate RINs, and a 20% limit on compliance demonstrated with carryover RINs.

As the only trade association representing all facets of the oil and natural gas industry, we urge the EPA to reject efforts by some to move the current point of RFS obligation.

V. Cellulosic Waiver Credits

At the June 9, 2016 public hearing on EPA's proposal, some commentators argued that EPA should restrict the availability of cellulosic waiver credits (CWCs) available to obligated parties. We disagree with this suggestion.

EPA discussed CWCs at length in the RFS2 rulemaking to implement the provisions of EISA. EISA states that whenever EPA reduces the minimum cellulosic mandate volumes specified in EISA, EPA "shall make available for sale cellulosic biofuel credits...." The law further directed EPA to promulgate regulations to implement this provision and states that "[t]he regulations shall limit the number of cellulosic biofuel credits for any calendar year to the minimum applicable volume (as reduced under this subparagraph) of cellulosic biofuel for that year."

EPA explained that they imposed a number of restrictions on the cellulosic biofuel waiver credits to ensure that they are not over utilized at the expense of actual renewable volume: 109

We have fashioned a number of limitations on the use of cellulosic that reflect these considerations. Specifically, the credits will be called "Cellulosic Biofuel Waiver Credits" (or "waiver credits") so that there is no confusion with RINs or allowances used in the acid rain program. Such waiver credits will only be available for the current compliance year for which we have waived some portion of the cellulosic biofuel standard, they will only be available to obligated parties, and they will be nontransferable and nonrefundable. Further, obligated parties may only purchase waiver credits up to the level of their cellulosic biofuel RVO less the number of cellulosic biofuel RINs that they own. A company owning cellulosic biofuel RINs and cellulosic waiver credits may use

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¹⁰⁹ 75 Fed. Reg. 14727 (Mar. 26, 2010)

both types of credits if desired to meet their RVOs, but unlike RINs obligated parties will not be able to carry waiver credits over to the next calendar year. Obligated parties may not use waiver credits to meet a prior year deficit obligation. These restrictions help ensure that waiver credits are not over utilized at the expense of actual renewable volume.

In the NPRM, EPA proposed that the credits could be usable for the advanced and total renewable standards similarly to cellulosic biofuel RINs. Several commenters stated this provision could displace advanced and total renewable fuel that was actually produced which would be against the intent of the Act, and that unlike RINs a company should only be permitted to use waiver credits to meet its cellulosic biofuel obligation. We agree, and are limiting the use of waiver credits for compliance with only a company's cellulosic biofuel RVO.

In the course of discussing the CWC issue in the RFS2 rule, EPA explained that the purpose of the CWC provision in EISA was to ensure that there is a "predictable upper limit to the price that cellulosic biofuel producers can charge for a gallon of cellulosic biofuel..." EPA also evaluated potential unintended consequences of this provision and solicited comments on additional restrictions. EPA recognized that additional restrictions, such as those called for by some commenters at the recent public hearing, would be counter to the purpose of the cellulosic waiver provision.

VI. E15 RVP Waiver

Several stakeholders testifying at the June 9, 2016 public hearing implored EPA to extend the 1.0 RVP waiver to E15 blends. API does not support such an extension. Section 211(h)(1) of the CAA restricts the RVP of summer gasoline sold in the United States, and the Act further grants a one pound waiver to E10 blends:

For fuel blends containing gasoline and 10 percent denatured anhydrous ethanol, the Reid vapor pressure limitation under this subsection shall be one pound per square inch (psi) greater than the applicable Reid vapor pressure limitations established under paragraph (1). 111

EPA considered the RVP waiver issue for ethanol blends in 1989, prior to the 1990 amendments, when EPA set an interim RVP level that was 1 psi higher "for gasoline-ethanol blends commonly known as gasohol." EPA promulgated RVP regulations in 1990 that again granted a 1.0 psi allowance for E10. It revisited the issue again in 1991, when it modified its RVP regulations the following year and clarified that the one pound waiver was limited to ethanol blends between nine and ten percent. It

¹¹⁰ Id

¹¹¹ 42 U.S.C. § 7545(h)(4).

^{112 54} FR 11868, 11879

¹¹³ 55 FR 23658, 23660

¹¹⁴ 56 FR 64704, 64708

More recently, in the context of the E15 partial waiver decisions and the Misfueling Mitigation Rule, EPA again reviewed the policies underlying the one pound RVP waiver and determined that it should not be extended to E15. In granting the partial waiver for E15 in 2010, EPA explicitly based its evaporative emissions analysis on the fact that E15 would NOT receive the one pound waiver that E10 does. EPA reached the same conclusion in 2011 when it extended the partial waiver to cover 2001 and newer light duty motor vehicles. In the Federal Register notice for the Misfueling Mitigation Rule, EPA again reviewed the comprehensive history of the one pound waiver and concluded again that it should only apply to fuel blends containing up to ten percent ethanol.

VII. E15 Labeling

API submitted a request in April 2015 for EPA to clarify that E15 is a gasoline, and the retail sale of E15 as flex fuel is prohibited by regulation. We remain concerned that in neglecting to address the issue is resulting in confusion in the marketplace and creating an unlevel playing field for gasoline retailers that abide by the EPA's rules.

As a result of EPA's CAA section 211(f) substantially similar waiver for E15, the fuel is classified as gasoline under EPA's regulations (not sometimes gasoline and sometimes flex-fuel) and is subject to EPA's summer RVP and pump label regulations. Both the EPA regulations and the CAA could not be clearer. As EPA has consistently recognized, E15 does not qualify for the one pound waiver and must meet the summertime RVP requirements to be legally sold. The attempt to label and sell E15 as "flex-fuel" is an unlawful attempt to bypass the existing RVP regulatory requirements. If this labeling is allowed, then theoretically, the same logic could apply to virtually any blend of ethanol and gasoline such as E10.

Some ethanol groups have actively endorsed the practice of relabeling E15 as flex-fuel to circumvent the RVP controls. A recent op-ed in the Des Moines Register clearly states a misinterpretation of the regulations "every summer when the calendar turns to June, I'm no longer allowed to sell E15 to 2001 and newer vehicles. It can be sold to flex-fuel vehicles only." A lack of clarification from EPA is leading not only to misinterpretations from individual station owners, but ethanol trade associations promoting the practice of relabeling E15 pumps in the summer as FFV only. EPA should clarify the regulations and prevent an unlevel playing field in the marketplace.

VIII. RIN Carry-over

EPA should adjust renewable fuel volumes downward as needed to ensure that carryover RINs are not intentionally drawn down, but instead remain fully available to meet unforeseen events

¹¹⁵ 76 Fed. Reg. 4662, 4663

Good, Charlie. "Summer brings ethanol quirk to Iowa gas stations." June 1, 2016, The Des Moines Register http://www.desmoinesregister.com/story/opinion/columnists/iowa-view/2016/06/01/summer-brings-ethanol-quirk-iowa-gas-stations/85193808/

¹¹⁷ Lane, Isabel. "E15 blends will be good for the summer, says American Coalition for Ethanol" May 25, 2014, Biofuels Digest.

and facilitate market functionality. EPA has estimated 1.72 billion carryover RINs are available for compliance after 2013 and has not assumed an intentional drawdown through 2017.

In finalizing renewable fuel volume standards for 2013, EPA relied on carry-over RINs for meeting statutory volumes of advanced and total renewable fuels. Subsequent to finalizing volume standards for 2013, EPA did not finalize standards for years 2014 to 2016¹¹⁸ until December 14, 2015. During this time period, EPA proposed standards for 2014, for years 2014-2016, and finalized standards for years 2014-2016 that took a different approach in the treatment of carryover RINs. EPA reverted to earlier rulemaking and focused on the important role of carryover RINs: "...to provide flexibility in the face of a variety of circumstances that could limit the availability of RINs. More specifically, carryover RINs provide a mechanism for offsetting the negative effects of fluctuations in either supply of or demand for renewable fuels." ¹¹⁹

This important function provided by carryover RINs was reaffirmed by EPA in final rulemaking for years 2014 to 2016 where EPA agreed with commenters on RINs providing flexibility and operability to the RFS program.

To the extent that market conditions and available carryover RINs change, EPA should adjust renewable fuel volumes downward to adhere to their proposed approach for 2017 in that collective carryover RINs not intentionally be drawn down and that renewable fuel volumes are not set at levels that envision a reduction in carryover RINs. While EPA discusses its aim for carryover RIN neutrality in the 2017 proposal (i.e. collective carryover RINs not expected to increase after 2016 nor intentionally drawn down), there are strong indications that EPA's proposed volumes are not achieving the goal of preserving the collective number of carryover RINs. As reported by Oil Price Information Service (OPIS) and Reuters¹²⁰, a private firm has predicted that carryover RINs will decline to 1.39 billion at the end of 2016 and further decline to 786 million by the end of 2017. The private firm has attributed this decline in carryover RINs, along with higher and more volatile RIN prices, to EPA's proposed biofuel volumes.

EPA must also account for RINs deemed invalid in setting RFS standards to maintain the total inventory of RIN carryover. A recent report indicates that 60 million fraudulent RINs were generated. ¹²¹ The replacement of any fraudulent RINs may result in a drawdown of carry-over RINs in 2017, particularly if EPA finalizes the overly aggressive RFS targets as EPA proposes.

The potential economic harm and market disruptions of setting renewable fuel volumes at levels too high to be absorbed into the market results from an insufficient number of RINs has been analyzed by NERA Economic Consulting. EPA has recognized real world constraints that exist

¹¹⁸ 80 Federal Register. No. 239, December 14, 2015.

¹¹⁹ 78 Federal Register. Nov 230, November 29, 2013.

http://www.reuters.com/article/usa-biofuels-idUSL1N19L14A

http://www.biodieselmagazine.com/articles/1313144/2-florida-men-plead-guilty-to-multistate-biodiesel-fraud-scheme

in limiting the supply of renewable fuels, and thereby the available number of RINs and potential reliance on carryover RINs, for meeting compliance obligations.

A Preliminary Assessment of RIN Market Dynamics, RIN Prices, and Their Effects

Dallas Burkholder, Office of Transportation and Air Quality, US EPA May 14,2015

Executive Summary

In 2013 the price of renewable identification numbers (RINs) for renewable fuels generated under the Renewable Fuel Standard (RFS) program increased significantly. This document examines available data in an attempt to describe and explain the factors that caused this increase in the price of one variety of renewable fuel (D6) RINs, and the impact this increase in RIN prices may have had on retail fuel prices. We also examine the impact of high RIN prices on merchant refiners (i.e. refiners who do not blend the majority of the petroleum products they produce with renewable fuels), some of whom argue that they are disadvantaged relative to integrated refiners (i.e. refiners who blend a volume of petroleum products with renewable fuels greater than or equal to the volume of petroleum products they produce) by high RIN prices. For the purposes of this document we have primarily considered available data from 2013, and have assumed constant renewable volume obligations (RVOs). This document does not quantify the total cost of the RFS program to consumers or other parties. We acknowledge, however, that the program is likely to have a cost if the cost of renewable fuels is greater than the petroleum based fuels they replace on an energy equivalent basis and if this cost outweighs the overall decrease in the cost of transportation fuel that results from increased fuel supply.¹

In examining the available data we found that the rise in D6 RIN prices can largely be explained by the increasing total renewable fuel requirement of the RFS program. For the first time in 2013 this standard was established at a level beyond what could be achieved by the blending of ethanol as E10. This meant that the D6 RIN price was largely driven by the marginal cost of blending and marketing ethanol as E85, or the cost of blending other non-ethanol renewable fuels where available, since nearly all gasoline sold in the United States already contained 10 percent ethanol. The demand price for ethanol sold in an E85 blend is significantly less than the demand price for ethanol sold as an E10 blend, as the lower energy density of the fuel, and therefore lower fuel economy of a vehicle operating on E85, are more noticeable in higher level ethanol blends. Alternative fuel choices to E85, such as E10, are also widely available, giving consumers the opportunity to purchase the lowest cost fuel. With the exception of two brief spikes in the price of D6 RINs, which may be the result of the market adjusting to new supply and demand realities,² the D6 RIN

¹ Several parties have credited the increased availability of renewable fuels with a decrease in the market price of petroleum derived fuels (relative to a scenario with no renewable fuels) as renewable fuels increase the global supply of transportation fuel. While we acknowledge that increasing available volumes of renewable fuels may have had some effect on global petroleum prices, there is much uncertainty surrounding the magnitude of this impact and quantifying it is beyond the scope of this document.

² These price spikes, reported by Oil Price Information Service (OPIS), may overstate the average RIN price as many RINs are purchased through long term contracts or acquired when attached to renewable fuels. The prices reported by OPIS are more reflective of the price for separated RINs in the spot market.

prices in 2013 generally reflect what would be expected as the demand price for ethanol shifts from a volumetric relationship with gasoline, as was the case for E10, to an energy equivalent relationship with gasoline, as is expected to be the case for E85. We do not find evidence that the price of D6 RINs was driven by scarcity pricing,³ as some have suggested.

While RIN prices were significantly higher in 2013 than in previous years, we did not see, nor would we expect to see, a corresponding net increase in the overall retail price of transportation fuels across the entire fuel pool. This is because the RIN price, rather than acting as an additional cost, generally acts as a transfer payment between parties that blend renewable fuels and obligated parties who produce or import petroleum-based fuels and are required to obtain RINs for compliance purposes.⁴ RINs are generated by renewable fuel producers and sold attached to volumes of renewable fuels to fuel blenders or obligated parties. When the RINs are separated from the renewable fuel and sold independently, the RIN seller may use the revenue received for the RIN to discount the effective cost of the renewable fuel. In order to recover the cost of purchasing RINs, however, obligated parties are expected to increase the selling price of the petroleum products they produce. If fuel prices are fully flexible, markets are perfectly competitive, and we assume no changes to the price of renewable or petroleum based fuels, these two price impacts, the discounting of renewable fuels enabled by the sale of the RINs and the higher petroleum prices that result from the cost of purchasing RINs, are expected to offset each other, resulting in the RIN price having no net impact across the entire fuel pool.

We note, however, that higher RIN prices are expected to have an impact on the retail price of transportation fuels such as E85, E10, and diesel fuel based on their renewable content. In some cases high RIN prices are expected to decrease the retail price of the fuel, while in others they are expected to result in an increase in the retail price of the fuel. High RIN prices are expected to reduce the price of fuel blends that contain a higher percentage of renewable fuels, such as E85 or B20, while increasing the price of fuels that contain little or no renewable fuels.⁵ An increase in D6 RIN prices, as seen in 2013, is expected to result in a significant decrease in the price of E85, a very small decrease in the price of E10, and an increase in the price of diesel fuel. This is because the RIN costs of a gallon of fuel (the price increase of the petroleum blendstock due to the RIN obligations) is proportional to the amount of petroleum blendstock contained in a fuel blend, while the RIN value (the effective price reduction of the renewable fuel content enabled by the sale of the RIN) is proportional to the renewable content of the blend. These price impacts are one of the primary ways the RFS program can incentivize the increased blending and consumption of

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³ Scarcity pricing occurs when the price of a good increases significantly due to concerns over a limited supply. In this context we use the term scarcity pricing to refer to a situation where the price of D6 RINs rises significantly beyond what would be expected when considering the price of ethanol and the consumer demand price for ethanol when sold as E85.

⁴ In some cases the fuel blender and obligated party may be the same company.

⁵ This is expected to be true in a competitive market, however many of these expected price reductions may not be realized for fuels such as E85 that at the current time generally face little competition at the wholesale and retail level. As the availability of these fuels increases we anticipate that a higher proportion of the expected price decrease will be realized by consumers.

renewable fuels in the United States. In blends such as E10, RIN prices are expected to have little overall impact as the RIN cost is approximately equal to the RIN value.

Finally, we examined available data to determine if the expected impacts of high RIN prices could be observed. We were able to observe these impacts in several areas, notably in price differences between petroleum-based fuels with and without RIN obligations and in lower wholesale and retail prices for fuel blends containing higher percentages of renewable fuels. RIN prices are not expected to have a significant impact on the wholesale or retail prices of E10, the most widely used transportation fuel in the United States, as the rise in the market price of the petroleum blendstock due to the RIN cost is offset by the lower effective price of the ethanol portion of the blend enabled by the value of the RIN. The higher market prices for petroleum fuels with RIN obligations relative to those without RIN obligations suggest that obligated parties are generally recovering their RIN costs in the price of the petroleum fuels they produce. Merchant refiners, who largely purchase separated RINs to meet their RFS obligations, should not therefore be disadvantaged by higher RIN prices, as they are recovering these costs in the sale price of their products. Were this not the case, merchant refiners could, and we expect would, avail themselves of other compliance strategies such as contractual arrangements and investing in fuel blending and distribution infrastructure, which are available to merchant refiners looking for alternative methods for meeting their RIN obligations.

Each of these conclusions, and the available data that EPA examined to arrive at these conclusions, is presented in further detail below. While the focus of this document is explaining the rise in RIN prices and resulting fuels marketplace impacts in 2013, we expect a similar set of issues and market forces will be at work in future years.

We note that this document examines available data through June 2014. EPA intends to continue to monitor available data and update the assessments contained in this document as time allows and data becomes available. EPA also welcomes feedback and input on our methodology and conclusions.

Background

On March 26, 2010 EPA published changes to the RFS program regulations, as required by the Energy Independence and Security Act of 2007 (EISA), to ensure that transportation fuel sold in the United States contains volumes of renewable fuel that are either specified in the statute or set by EPA pursuant to specified waiver authorities. The EISA amendments increased the volume of renewable fuel required to be blended into transportation fuel to 36 billion gallons by 2022. As a part of the RFS regulations, EPA implemented a system for tracking the production and use of qualifying renewable fuel using Renewable Identification Numbers or RINs. These RINs are generated by renewable fuel producers or importers and are bought and sold "attached" to the renewable fuel until the fuel is purchased by an "obligated party" (a refiner or importer of gasoline or diesel fuel) or blended with a petroleum-based transportation fuel. At that point the RIN is "separated"

from the fuel and may thereafter be independently bought or sold until it is retired to meet an obligated party's renewable volume obligation or for some other reason.

By providing an opportunity for obligated parties to fulfill their obligations under the RFS program by purchasing RINs, the RIN market allows obligated parties the flexibility to choose whether or not to be directly involved in the blending of renewable fuels. Obligated parties may choose to acquire RINs by directly blending renewable fuels, by purchasing renewable fuel, separating the RINs, and selling the renewable fuel without RINs, or by purchasing separated RINs on the spot market or through other contractual arrangements. While most RINs are used for compliance in the year they are generated, up to 20% of an obligated party's renewable volume obligation (RVO) may be satisfied with RINs generated in the previous year. This allows excess RINs to function as an inventory in the RIN trading market and provides compliance flexibility to the obligated parties as excess (or "carry over") RINs can act as a buffer for obligated parties to protect themselves against unforeseen changes in the RIN market. Obligated parties may also defer their RFS obligation, in whole or in part, to the following year, provided that the RIN obligation is satisfied together with the party's next year's RVO.

In 2013 the price for Renewable Fuel RINs (D6) increased substantially, from an average of a few cents per RIN in previous years to over \$1.00 per RIN in the summer of 2013 (see Figure 1 below). The swift run up in the RIN price led a variety of stakeholders to conduct analyses looking into the causes and impacts of the increase. This document presents EPA's assessment of the cause of the high RIN prices, the expected impacts on retail fuel prices of high RIN payments, and the impact of high RIN prices on obligated parties. Throughout, this document focuses on D6 RINs; references to RIN prices are to D6 RINs unless otherwise noted.

RIN Prices \$1.60 \$1.40 \$1.20 \$1.00 50.80 **D6 RIN Price** \$0.60 **D4 RIN Price** D5 RIN Price \$0.40 \$0.20 \$0.00 1/2/2013 0/2/2013 2/2/2013 5/2/2014 7/2/2013 8/2/2013 9/2/2013 1/2/2014 All RIN Prices from OPIS Ethanol and Biodiesel Information Service.

Figure 1

RIN Market Overview

In attempting to describe and explain the many factors that affect RIN prices or the effect of RIN prices on fuel prices and market participants, it is helpful to begin with a look at the roles different RIN market participants play. RINs are generated by renewable fuel producers.⁶ RINs may be generated any time after the fuel is produced but before the fuel leaves the custody of the renewable fuel producer. Each RIN is "attached" to a gallon of renewable fuel and must be sold with that gallon of renewable fuel for which it was generated.

After a gallon of renewable fuel is sold, it is generally blended with a petroleum based fuel to produce a transportation fuel such as E10, E85, or B5. When a gallon of renewable fuel with an attached RIN is purchased by an obligated party⁷ or blended to create a

⁶ Renewable fuel must be made from "renewable biomass" in accordance with a "pathway" determined by EPA to satisfy lifecycle greenhouse gas reduction requirements (or be grandfathered from such requirements) and be produced for use as transportation fuel, jet fuel or home heating oil. Pathways are a combination of feedstock, finished fuel type, and production process. For a list of currently approved pathways see 40 CFR 80.1426

⁷ In the RFS program an obligated party is defined as any refiner that produces gasoline or diesel fuel in the 48 contiguous states or Hawaii, or any importer that imports gasoline or diesel fuel, into the 48 contiguous states or Hawaii

transportation fuel the owner of the fuel may separate the RIN from the renewable fuel. The RIN can then be used by the obligated party to demonstrate compliance with their RFS obligation, or it can be sold to another obligated party seeking RINs to fulfill their renewable volume obligation. Figure 2 presents a basic schematic of the RIN/renewable fuel market.

Figure 2
Product Transfers in the Renewable Fuel and RIN Market⁸

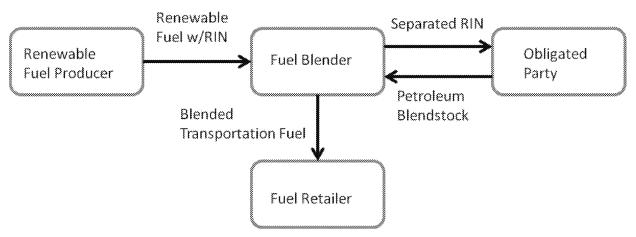


Figure 2 greatly simplifies the reality of a complex marketplace. For example, many obligated parties also own fuel blending operations, and others may purchase renewable fuel with an attached RIN, retain the RIN, and then sell the renewable fuel without the RIN. In practice several parties may take ownership of a renewable fuel before it is blended with a petroleum blendstock to produce a transportation fuel. Similarly separated RINs may be sold to brokers or aggregators before being sold to obligated parties. Where there are additional parties participating in the marketplace not shown in the graphic above, the commodity price received by one of the depicted parties will not be equal to the purchase price paid by the party who ultimately receives the commodity as the intermediate parties will require a fee for their services. We do not expect these fees to be significant, as the RIN and transportation fuel marketplaces are generally competitive.

There are also cases where a single company may be active in multiple areas of the transportation fuel market place. Examples include an ethanol production facility that blends finished transportation fuel, or a refiner who owns fuel blending terminals. In these cases certain transactions may take place within a single company rather than between two companies. The same fundamental transactions, however, still take place, whether they are internal to one company or external and involve different entities.

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⁸ In the graphics in this document we have depicted the renewable fuel producer, fuel blender, obligated party, and fuel retailer as independent entities. In reality two or more of these functions may be conducted by the same company. Traditionally many obligated parties have also functioned as fuel blenders, and increasingly renewable fuel producers are also producing and marketing renewable fuel blends.

Factors Affecting the RIN Price

EPA designed the RIN program with the intention of providing a market-based compliance mechanism that would cause minimal disruption in the transportation fuel marketplace, while also providing EPA with the necessary assurance that the mandated volumes of renewable fuel would be used in the transportation sector. EPA sought to provide flexibility to refiners, importers, and other producers of petroleum-based transportation fuel by allowing obligated parties to purchase RINs and rely on the existing renewable fuel production, distribution, and blending marketplace rather than requiring each obligated party to directly blend a quantity of renewable fuel equal to their renewable volume obligation. If the RIN market is functioning efficiently the RIN price should be approximately equal to the difference between a renewable fuel's supply price and its demand price (the price the market is willing to pay for the renewable fuel as a transportation fuel). The RIN price provides the incentive the renewable fuel producer needs to continue to produce renewable fuel up to the mandated volume even if the demand price for the fuel would not otherwise cover the cost of production of the renewable fuel.

With this in mind, EPA examined available price data to determine if changes in the supply and demand price for renewable fuels explained the rising and variable D6 RIN prices observed in 2013. Determining a supply price was straightforward: EPA used ethanol⁹ price data reported weekly by USDA.¹⁰

Determining the demand price for ethanol, however, is more complicated. Ethanol, in its unblended form, cannot be used as a transportation fuel by vehicles in the United States. It must be blended with gasoline to produce transportation fuels such as E10 (containing 10% ethanol) or higher level blends such as E85 (containing between 51% and 83% ethanol with a national average ethanol content of 74% as reported by the Energy Information Administration (EIA)).

We posit that the demand price for ethanol in a blended transportation fuel varies significantly depending on the ethanol blend level. The vast majority of ethanol sold as transportation fuel in the United States is sold as E10. When ethanol is sold in an E10 blend we believe that the demand price is approximately equal to the price of the gasoline fuel into which it is blended on a volumetric basis, despite the fact that ethanol contains approximately 33% less energy per gallon than gasoline.

There are several reasons we believe this to be the case. Due to the relatively low level of ethanol in E10 the fuel economy reduction of E10 as compared to E0 (gasoline without ethanol) is fairly small (approximately 3%) and not noticeable by most consumers. Customers therefore generally do not seek price discounts for E10 v. E0. Furthermore, for

⁹ Throughout this document all references to ethanol are to denatured ethanol

¹⁰ Data recorded by Agricultural Marketing Resource Center. These prices are for ethanol with attached RINs. Accessed online April 10, 2014 http://www.agmrc.org/renewable_energy/ethanol/midwest-ethanol-cash-prices-basis-data-and-charts-for-selected-states/

the relatively few consumers who are aware of the slightly lower energy content (and therefore lower fuel economy) of E10 as compared to E0, options to purchase E0 are very limited as virtually all gasoline sold in the United States now contains 10% ethanol. Where E0 is available, it is generally priced at a significant premium relative to E10, thus negating any potential value it may have offered due to its higher energy content. For a further discussion of the pricing of ethanol as E10 see the 2012 Notice of Decision Regarding Requests for a Waiver of the Renewable Fuel Standard. 11

If the demand price for ethanol as transportation fuel when blended as E10 is approximately equal to the price of gasoline on a volumetric basis, rather than an energy-equivalent basis, we would expect D6 RIN prices to be very low whenever the ethanol price is below the gasoline price. This is because fuel blenders can generate profit by purchasing ethanol for a lower price than gasoline and sell the blended E10 at a price approximately equal to that of the gasoline blendstock on a per gallon basis despite the lower energy content of the fuel. No RIN value is necessary for the blending of ethanol to be profitable under these conditions. This was the case throughout the history of the RFS program until the early months of 2013. As shown in the graph below, from July 2010, the effective date of the updated RFS regulations, through the end of 2012 ethanol was generally priced below gasoline on a volumetric basis, and D6 RIN prices were only a few cents, likely attributable to RIN transaction costs. In 2013 the price of ethanol generally remained below the price of gasoline on a volumetric basis, yet the price of D6 RINs increased substantially. We believe a significant factor in this change in RIN price was a saturation of the E10 pool requiring that any additional volumes of ethanol be blended as E85.

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\$3.50 \$3.00 \$2.50 \$2.00 Ethanol Price \$1.50 Gasoline Price \$1.00 D6 RIN Price \$0.50 \$0.00 4/1/2011 7/1/2011 7/1/2013 10/1/01 1/1/2012 4/1/2012 7/1/2012 10/1/2012 1/1/2013 4/1/2013

Figure 3
Ethanol, Gasoline, and D6 RIN Prices (July 2010 – June 2014)

Note: The ethanol blenders tax credit expired on December 31, 2011, likely resulting in the decline in ethanol price in January 2012. The price spike in March/April 2014 was primarily the result of extremely cold winter temperatures leading to rail congestion¹²

When ethanol is sold as an E85 blend available information suggests that the ethanol has a significantly different consumer demand price. E85 blends contain significantly less energy per gallon than E10 (approximately 22% less energy per gallon assuming E85 contains 74% ethanol). This lower energy content results in a decrease in fuel economy of approximately 22% when owners of flexible fuel vehicles (FFVs) operate their vehicles on E85 rather than E10. Not only is the decrease in fuel economy more noticeable to fuel customers, but the fuel customers also have the ability to choose between purchasing E85 or E10, as E10 is available everywhere that E85 is. For E85 to appeal to most customers, therefore, it would need to be priced in a manner that accounts for the fuel economy penalty, as well as any "inconvenience factor" associated with its lack of availability relative to E10 and the need to refuel more frequently.

We argue that the more noticeable decrease in fuel economy and the greater availability of alternative fuel choices has a significant impact on consumer decisions regarding purchases of E85. While some FFV owners, primarily motivated by factors other than minimizing fuel costs¹³, may purchase E85 at prices above energy parity, the majority of

¹² For further information on this issue see "Rail congestion, cold weather raise ethanol spot prices." *Today in Energy*. U.S. Energy Information Administration, April 3, 2014. Web. September 25, 2014 http://www.eia.gov/todayinenergy/detail.cfm?id=15691.

¹³ Consumers may purchase E85 when priced above energy parity for reasons such as supporting the rural economy, a desire to buy a domestically sourced fuel, E85's perceived environmental attributes, or government fleet mandates. Alternatively some customers may avoid purchasing E85 even when it is

potential E85 customers will likely only purchase E85 if it is priced at a per gallon discount equal to or greater than the difference in energy content between E85 and E10.¹⁴ If this is the case, the demand price for ethanol as a transportation fuel in an E85 blend is proportional to gasoline on an energy-equivalent, rather than a volumetric basis. This means that we would expect the true demand price for ethanol blended as E85 to be approximately 67% of the price of gasoline.¹⁵ We would further expect that in a competitive market the D6 RIN price would be approximately equal to the difference between the price of ethanol relative to the price of gasoline on a volumetric basis (or near zero if ethanol were cheaper) when ethanol was primarily sold as E10, as it was until the end of 2012, and approximately equal to the difference on an energy-equivalent basis (67% of the price of gasoline) when the E10 market is effectively saturated and additional ethanol must be blended as E85, as it was in 2013. The prices of ethanol, gasoline, and an ethanol-equivalent gallon of gasoline (67% of a gallon) for 2012 and 2013 are shown below (Figure 4), followed by a graph that compares the difference between these prices and the observed D6 RIN price in 2012 and 2013 (Figure 5).

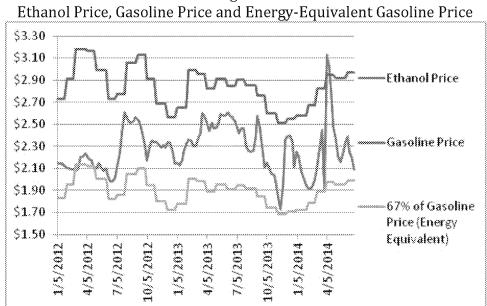
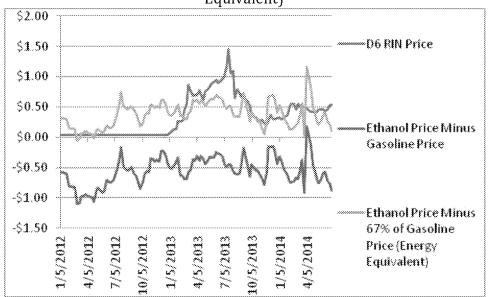


Figure 4
Ethanol Price, Gasoline Price and Energy-Equivalent Gasoline Price

available and priced below energy parity due to concerns about fuel quality, a desire to avoid more frequent refueling, or a lack of knowledge that the fuel is compatible with their vehicle.

¹⁴ Informed customer decisions are often complicated by a lack of information on the precise ethanol content of E85. E85 may contain anywhere from 51% to 83% ethanol. Uncertainty regarding the ethanol content of E85 may hinder a customers ability to effectively choose the lower cost fuel on an energy-equivalent basis. ¹⁵ The energy content of ethanol (77,000 BTU/gallon) is approximately 67% of the energy content of gasoline or E0 (115,000 BTU/gallon).

Figure 5
D6 RIN Price and Difference Between Ethanol and Gasoline Price (Volumetric and Energy-Equivalent)



For the first time in 2013, the portion of obligated parties' total renewable volume obligations that could be satisfied with D6 RINs (the total volume obligation for nonadvanced biofuels) exceeded the quantity of RINs that could be obtained by blending ethanol with gasoline to create E10. Because the amount of ethanol that could be blended as E10 was effectively capped, obligated parties looked to alternative sources of RINs, such as increased blending of ethanol as E85, the blending of additional non-ethanol biofuels, or the use of carry over RINs (RINs generated in 2012 available to satisfy 2013 obligations). In the ethanol market, we argue that the customer demand price shifted from a price based in part on gasoline on a volumetric basis (as it had been when increased blending of ethanol as E10 had represented the marginal gallon of ethanol), to one based in part on gasoline on an energy-equivalent basis, as increased ethanol blending of ethanol as E85 now represented the marginal gallon of ethanol. Figure 5 illustrates this shift. Throughout the vast majority of the time from January 2012 through June 2014 ethanol was cheaper than gasoline on a volumetric basis. Prior to reaching the E10 blendwall in 2013 the demand price for ethanol was primarily based on that of gasoline on a volumetric basis and D6 RINs were only a few cents, effectively representing transaction costs. After reaching the blendwall the demand price for ethanol shifts to being based primarily on the price of gasoline on an energy-equivalent basis. Because ethanol was more expensive than gasoline on an energy-equivalent basis from January 2013 through June 2014 the D6 RIN prices help offset the difference between the supply price of ethanol and the new demand price when the marginal gallon of ethanol is sold as E85.

This higher D6 RIN value also provided an increased opportunity for the increased blending of non-ethanol fuels, which may not have been profitable to blend into transportation fuel with low D6 RIN prices. In each of these cases, increased blending of ethanol as E85 and increased use of non-ethanol biofuels, the supply price exceeded the

demand price for these renewable fuels when used as a transportation fuel. As a result, RIN prices increased in 2013 as shown in Figure 1. The increasing D6 RIN price provided an incentive not only for increased blending of ethanol as E85, but also for the increased production and import of non-ethanol fuels such as biodiesel and for a draw-down in the bank of carry over RINs.

During the period of high RIN prices in the middle of 2013 some parts of the United States saw growth in E85 sales. This growth was most notable in states, such as Minnesota and Iowa, where the RIN value was most likely to be passed on to the consumer due to competition at both the wholesale and retail level in the E85 market. 16 However, consumption of E85 remained limited despite the high RIN prices due to a variety of factors including a lack of infrastructure for the blending, sale, and consumption of E85, and the lack of competitive markets leading to limited RIN value pass through to consumers in many markets.

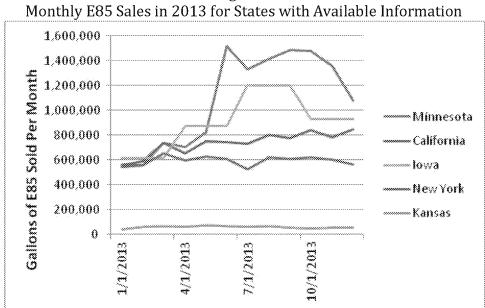


Figure 6

High D6 RIN prices had an even more significant impact on the production and consumption of non-ethanol biofuels such as biodiesel and renewable diesel, which did not face the same infrastructure challenges as ethanol blended as E85. Generation of D6 RINs for biodiesel and renewable diesel increased from approximately 6 million and 1 million in 2011 and 2012 respectively to over 250 million in 2013.¹⁷ Generation of D4 (biomassbased diesel) RINs were also at the highest levels achieved under the RFS program. The increased availability of these fuels, combined with the availability of carry over RINs from excess production in 2012 helped to moderate the price of D6 RINs in 2013 despite the

¹⁶ According to data from DOE's Alternative Fuels Data Center approximately 20% of all E85 stations in the United States in 2013 were located in Minnesota or Iowa

¹⁷ All RIN production numbers from EMTS

limited ability of RIN prices or volume mandates to increase the consumption of ethanol as E85.

On the basis of the data available to EPA, we believe much of the increase in 2013 D6 RIN can be explained by the arrival of the E10 blendwall in 2013 and the resulting change in demand price for ethanol. These factors alone, however, do not provide a complete explanation of the observed D6 RIN prices. As shown in Figure 5, from May 2013 through August 2013, spot D6 RIN prices were substantially higher than would have been expected based solely on the prices of ethanol and gasoline. This may have been due to a variety of factors, including: limited blending and retail infrastructure for E85, limited ability for RIN prices to affect the retail price of E85, the RIN price needed to incentivize increasing the production or import of non-ethanol fuels, and uncertainty about the final RFS standards for 2013 and 2014. It may also be the case that the reported prices for D6 RINs reflect the price of a relatively small number of RINs traded on the spot market rather than the D6 RINs purchased through long term contracts and are therefore more volatile and not necessarily reflective of the average D6 RIN price. Regardless, these elevated D6 RIN prices increased the incentive for the production, import, and consumption of non-ethanol fuels, notably biodiesel produced from grandfathered facilities, 18 which were eligible to generate D6 RINs and could now compete in the domestic fuels market as a result of their significantly increased RIN value. In other words, renewable fuels that were uneconomic to produce or import to satisfy the D6 RIN obligations when RIN prices were only a few cents became economic to produce or import with substantially increased D6 RIN prices.

It is highly speculative and difficult to predict the future price of D6 RINs, as they are influenced by multiple factors, including the supply and demand prices for ethanol, the price of petroleum, the cost of production of non-ethanol renewable fuels, consumer behavior in the E85 market, and availability of alternative compliance mechanisms. However, given the fact that the required total renewable fuel volume will likely exceed the volume of ethanol that can be blended as E10 in the future, we would not expect D6 RIN prices to return to the prices seen from 2010 to 2012.¹⁹

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¹⁸ Grandfathered facilities are those that commenced construction on or before December 17, 2007, or any ethanol plant fired by natural gas, biomass, or a combination thereof that commenced construction before December 31, 2009. These facilities are exempt from the 20% GHG reduction requirement for the generation of D6 RINs, however they still must use a feedstock that meets the renewable biomass definition, be intended for use as transportation fuel or other qualifying uses, and meet all other reporting and recordkeeping requirements.

¹⁹ RIN prices could return to historic low levels of a few cents if the price of ethanol or other renewable fuels fell sufficiently below the cost of gasoline on an energy equivalent basis

60,000,000 \$1.40 \$1.20 50,000,000 \$1.00 40.000.000 **Non-Ethanol** D6 RINS \$0.80 30.000.000 Generated \$0.60 20,000,000 \$0.40 * D6 RIN Price 10,000,000 \$0.20 \$0.00 7/1/2012 10/1/2012 7/1/2013 10/1/2013 1/1/2014 4/1/2012 1/1/2013 1/1/2013

Figure 7
Generation of Non-Ethanol D6 RINs and D6 RIN Price

*RIN Prices from OPIS Ethanol and Biodiesel Information Services

RIN Price Impact on Transportation Fuel Prices

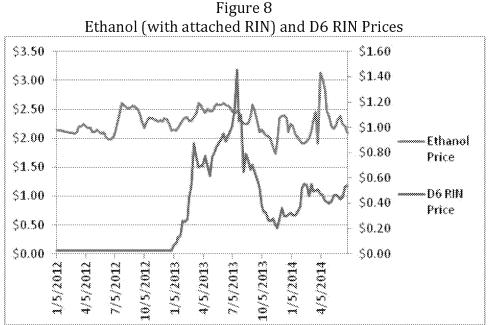
The high RIN prices observed in 2013 prompted questions not only regarding the cause of the increase, but also about the impact the RIN prices would have on the retail price of transportation fuel. Some have suggested that higher RIN prices necessarily lead to higher retail prices for all transportation fuels. Our analysis, however, indicates that this is not likely to be the case. In short, this is due to the fact that, rather than being an additional cost, RINs can be viewed as transfer payments from obligated parties to renewable fuel blenders to incentivize the blending of renewable fuels and the sale of fuel blends with higher renewable content. These payments, while having no net impact on the overall cost of transportation fuel, can reduce the price of fuels with high renewable content, such as E85, at the expense of fuels such as diesel that generally contain a small percentage of renewable fuel. This can ultimately increase the demand for renewable fuels by giving the fuel blenders a greater incentive to increase the renewable content of the fuel blends they sell.

If the cost of producing ethanol and gasoline blendstocks (or biodiesel and diesel fuel) remains unchanged, then the overall cost of the blended fuels should not be impacted by RIN prices.²¹ This does not mean that there is no cost to increasing the volume of renewable fuels required to be blended into the transportation fuel pool. If renewable fuels cost more on an energy-equivalent basis than the petroleum fuels they displace there is a

²⁰ For example see "Gasoline Price Inflated by Ethanol in Oil Boom: Energy Markets" by Mario Parker, published by Bloomberg on March 21, 2013. Available online < http://www.bloomberg.com/news/2013-03-21/gasoline-price-inflated-by-ethanol-in-oil-boom-energy-markets.html>

²¹ As stated in the previous paragraph, however, varying RIN prices are expected to impact the relative prices of different fuel types such as E85, E10, E0, B20, B5, etc.

cost to using these renewable fuels; and the higher the required volume of these fuels, the higher the cost will be. As can be seen in examining the available data, however, the sharp rise in D6 RIN prices did not have a measurable impact on the prices of ethanol with attached RINs (see Figure 8). Renewable fuel blenders acquire RINs by purchasing renewable fuels with attached RINs.²² They sell these RINs to obligated parties, who look to recover the cost of these RINs in the price of the blendstocks they sell to the fuel blenders. Higher blendstock prices are in turn offset by the RIN value captured by blenders when they blend renewable fuels. We expect that higher RIN prices may increase the magnitude of these payments between obligated parties and renewable fuel blenders, as well as the relative pricing of fuel blends containing higher volumes of renewable fuels versus those containing little or no renewable fuel (see Figures 9 and 10 below), but that the net impact of these transfers on the cost of transportation fuel would be minimal.



To illustrate this we examined the expected price of fuel supplied to the retailer for both E10 and E85. We did this first assuming a relatively low average RIN price and then again using the average RIN prices in 2013. The prices used for this example are shown in Table 1 below. The RIN obligation percentages are based on the 2013 volume requirements and standards. We note that because the standards are nested, the D6 RIN obligation percentage is equal to the total renewable fuel percentage standard minus the advanced biofuel percentage standard. Similarly, the D5 RIN obligation percentage is equal to the advanced biofuel percentage standard minus the biomass-based diesel percentage standard. For this example we have ignored the very small cellulosic biofuel requirement.

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²² As noted previously, renewable fuels with attached RINs can be purchased directly by obligated parties, and many obligated parties also blend renewable fuels to produce transportation fuel.

The total RIN cost is calculated by summing the product of the RIN obligation percentages by the corresponding RIN price for each of the RIN types. The structure of the RFS program is such that every gallon of gasoline or diesel fuel produced or imported in the United States has an equal RIN obligation, including cellulosic, biomass-based diesel, advanced, and total renewable RINs. This means that the RIN cost for a gallon of gasoline is impacted by the price of the biomass-based diesel RIN, even though biodiesel cannot be blended into gasoline. Our examples reflect this structure, with identical RIN costs for gasoline and diesel that vary with different RIN prices. For these examples we have ignored transportation, overhead, and profit-taking to simplify our analysis. While these are all factors that will impact the cost paid by retailers for blended fuels, we would not expect them to vary with RIN prices and have therefore not explicitly considered them in our example.

Table 1
Illustrative Commodity Prices for Exploring RIN Price Impacts on Retail Fuel Prices

The state of the s	Low RIN Prices	High RIN Prices
	LOW KIN FIICES	0
		(2013 Average
		for RIN Prices)
Ethanol (with attached RIN) ²⁵	\$2.25/gallon	\$2.25/gallon
Gasoline blendstock (without RIN	\$2.75/gallon	\$2.75/gallon
costs)		
Biodiesel (with attached RIN)	\$4.00/gallon	\$4.00/gallon
Diesel blendstock (without RIN costs)	\$3.25/gallon	\$3.25/gallon
D6 RIN Price	\$0.05	\$0.60
D4 RIN Price	\$0.50	\$0.73
D5 RIN Price	\$0.25	\$0.71
D6 RIN Obligation	8.12%	8.12%
D4 RIN Obligation	1.13%	1.13%
D5 RIN Obligation	0.49%	0.49%
Total RIN Cost per gallon(All RIN	\$0.01	\$0.06
obligations)		

Using these assumptions for commodity prices, and based on our schematic of the RIN and fuel market shown in Figure 2 above, we can follow each of the fuel types through the RIN and fuel market to estimate the impacts on the price paid by retailers for both E10 and E85.

For the low RIN price scenario, we begin with the purchase of ethanol by the fuel blender from the renewable fuel producer. In this transaction the fuel blender receives one gallon

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²³ Per Gallon RIN Cost = D6 RIN Obligation * D6 RIN Price + D5 RIN Obligation * D5 RIN Price + D4 RIN Obligation * D4 RIN Price. This is the RFS "compliance cost" for each gallon of gasoline and diesel produced or imported by an obligated party.

²⁴ EPA has examined some data that suggests increased profit taking during times of high RIN prices in the E85 market, but believe this will decrease as competition in the E85 marketplace increases.

²⁵ As shown in Figure 8, data from 2013 strongly suggests that the price of ethanol with an attached RIN is not a function of the RIN price

of ethanol and the corresponding D6 RIN from an ethanol fuel producer for \$2.25. After receiving the ethanol from the ethanol producer the fuel blender separates the D6 RIN and sells it to an obligated party for \$0.05. The net purchase price for the ethanol without the RIN is therefore \$2.20. The fuel blender next purchases gasoline blendstock from a refiner. The price the refiner would charge for one gallon of gasoline blendstock in the absence of the RFS program in this example is assumed to be \$2.75 per gallon. Anticipating the need to purchase RINs to satisfy the RIN obligation associated with selling the gallon of gasoline blendstock, the refiner instead charges the fuel blender \$2.76 per gallon (\$2.75 for the cost of the gasoline blendstock and \$0.01 to cover the per gallon cost of the RIN obligations). The fuel blender has effectively paid \$2.20 per gallon of ethanol (\$2.25 per gallon with attached RIN - \$0.05 cost recovered in the sale of the RIN) and \$2.76 per gallon of gasoline blendstock (\$2.75 for the blendstock + \$0.01 RIN recovery cost). The cost of producing blended fuels can be calculated by taking the average of these two fuel component costs weighted by the proportion of each component in the finished fuel blend.²⁶ The resulting blended fuel costs are \$2.70 per gallon for E10 and \$2.35 per gallon of E85. The prices and flows of the various commodities are shown in Figure 9 below.

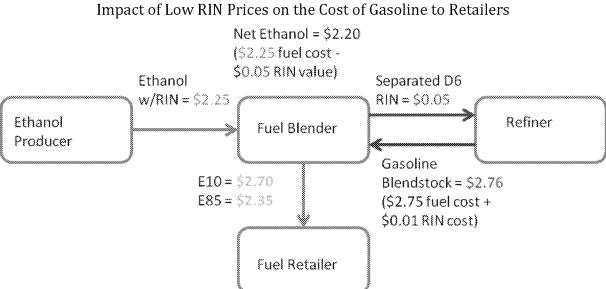


Figure 9
Impact of Low RIN Prices on the Cost of Gasoline to Retailers

A similar scenario can be examined with high RIN prices, such as those observed in 2013. For this scenario, we begin in the same place, with the purchase of ethanol by the fuel blender from the renewable fuel producer. As in the previous scenario, the fuel blender receives one gallon of ethanol and the corresponding D6 RIN from an ethanol fuel producer for \$2.25. In this case, however, after being separated from the gallon of ethanol the RIN is sold to an obligated party for \$0.60. The net purchase price for the ethanol without the RIN is therefore \$1.65 rather than \$2.20 in the previous scenario. In response to the higher RIN

 $^{^{26}}$ For this example we have assumed E10 contains 10% ethanol and 90% gasoline blendstock and E85 contains 74% ethanol and 26% gasoline blendstock. The equations to calculate the cost are therefore E10 = 0.1*[net ethanol cost] + 0.9*[net gasoline blendstock cost] and E85 = 0.74*[net ethanol cost] + 0.26*[net gasoline blendstock cost].

prices, the refiner must charge more for each gallon of gasoline blendstock sold to cover the cost of purchasing RINs to fulfill their RVO. The refiner now charges the fuel blender \$2.81 per gallon of gasoline blendstock (\$2.75 for the cost of the gasoline blendstock and \$0.06 to cover the cost of the RIN obligations). In this high RIN price scenario, the fuel blender has effectively paid \$1.65 per gallon of ethanol (\$2.25 per gallon with attached RIN - \$0.60 cost recovered in the sale of the RIN) and \$2.81 per gallon of gasoline blendstock (\$2.75 for the blendstock + \$0.06 RIN recovery cost). The resulting blended fuel costs are \$2.69 per gallon for E10 and \$1.95 per gallon of E85. The prices and flows of the various commodities are shown in Figure 10 below.

Figure 10

Impact of High RIN Prices on the Cost of Gasoline to Retailers Net Ethanol = \$1.65 (\$2.25 fuel cost -\$0.60 RIN value) Ethanol Separated D6 w/RIN = \$2.25RIN = \$0.60Ethanol Refiner Fuel Blender Producer Gasoline E10 = \$2.69 Blendstock = \$2.81 E85 = \$3.95 (\$2.75 fuel cost + \$0.06 RIN cost)

Fuel Retailer

As these two scenarios demonstrate, rising RIN prices alone are not expected to increase

the price of transportation fuel to retail station owners, however they have a significant impact on the relative prices of fuels with a relatively high renewable content (E85) as compared to those with a relatively low renewable content (E10). As the cost of acquiring RINs rises, refiners and other obligated parties are expected to respond to this cost by increasing the price of the gasoline blendstock they are selling to recover their increasing RIN costs. While this does increase the market price for the gasoline blendstock, this increase is generally offset by the lower net price paid for the ethanol with which the gasoline blendstock is blended.

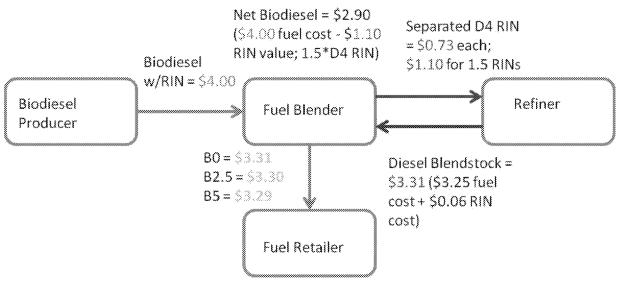
The same market dynamics are at work in the diesel fuel marketplace. When considering the impact of RIN prices on cost of fuel to the retailer, we begin with the purchase of biodiesel by the fuel blender from the renewable fuel producer. The fuel blender receives one gallon of biodiesel and 1.5 D4 RINs from a biodiesel producer for \$4.00. Each gallon of biodiesel generates 1.5 RINs due to the higher energy content of biodiesel relative to ethanol. After being separated from the gallon of biodiesel, the RINs are sold to an obligated party for \$0.50 each (the blender receives the total RIN value associated with a gallon of biodiesel; \$0.75 in the low RIN price scenario). The net purchase price for the

biodiesel without the RIN is therefore \$3.25. For the purposes of this example we are not considering the impact of any blenders tax credit on the cost of biodiesel blends to retail stations. To cover the anticipated cost of their RIN obligation, the refiner charges the fuel blender \$3.26 per gallon of diesel blendstock (\$3.25 for the cost of the diesel blendstock and \$0.01 to cover the cost of the RIN obligations). In this scenario, the fuel blender has effectively paid \$3.25 per gallon of biodiesel (\$4.00 per gallon with attached RIN - \$0.75 cost recovered in the sale of the RINs) and \$3.26 per gallon of diesel blendstock (\$3.25 for the blendstock + \$0.01 RIN recovery cost). The resulting blended fuel costs are an identical \$3.26 per gallon for B0, B5 and B2.5 (the average blend rate if every gallon of diesel fuel sold contained biodiesel). The prices and flows of the various commodities are shown in Figure 11 below.

Figure 11 Impact of Low RIN Prices on the Cost of Diesel to Retailers Net Biodiesel = \$3.25 Separated D4 RIN (\$4.00 fuel cost - \$0.75) = \$0.50 each; RIN value; 1.5*D4 RIN) Biodiesel \$0.75 for 1.5 RINs w/RIN = \$4.00Biodiesel Refiner Fuel Blender Producer B0 = \$3.26 Diesel Blendstock = B2.5 = \$3.26 \$3.26 (\$3.25 fuel B5 = \$3.26 cost + \$0.01 RIN cost) **Fuel Retailer**

For the high RIN price scenario, the cost of the biodiesel with attached RINs to the fuel blender is the same \$4.00 per gallon. The net purchase price for the biodiesel without the RINs is now reduced to \$2.90 per gallon (\$4.00 per gallon of biodiesel – 1.5 RINs * \$0.73 per RIN). In response to the higher RIN prices, the refiner must charge an additional \$0.06 for each gallon of diesel blendstock sold, resulting in a per gallon price of \$3.31 per gallon for diesel blendstock. In this high RIN price scenario, the fuel blender has effectively paid \$2.90 per gallon of biodiesel (\$4.00 per gallon with attached RIN - \$1.10 cost recovered in the sale of the RINs) and \$3.31 per gallon of diesel blendstock (\$3.25 for the blendstock + \$0.06 RIN recovery cost). The resulting blended fuel costs are \$3.31 per gallon for B0, \$3.30 per gallon of B2.5, and \$3.29 per gallon of B5. The prices and flows of the various commodities are shown in Figure 12 below.

Figure 12 Impact of High RIN Prices on the Cost of Diesel to Retailers



When comparing the impact of high versus low RIN prices on the cost of gasoline and diesel fuel blends to retailers we note two key differences. The first is that the price of gasoline and ethanol fuel blends are much more sensitive to high RIN prices than the price of diesel and biodiesel fuel blends (see Table 2 below). This is due to the fact that the renewable content of gasoline is generally much higher than for diesel fuel (almost all gasoline sold in the United States contains 10% ethanol, with limited availability of blends containing up to 85% ethanol; biodiesel is generally sold at blends containing 5% biodiesel or less, with few blends offered that contain more than 20% biodiesel).

Table 2
Impact of High RIN Prices on Retail Fuel Prices

	No RIN Price	Low RIN Prices	High RIN Prices
	(No RFS)		
EO	\$2.75	\$2.76	\$2.81
E10	\$2.70	\$2.70	\$2.69
E85	\$2.38	\$2.35	\$1.95
В0	\$3.25	\$3.26	\$3.31
B2.5	\$3.27	\$3.26	\$3.30
B5	\$3.29	\$3.26	\$3.29

The second difference that can be observed is that increasing D6 RIN prices are expected to cause a slight decrease in gasoline prices and an increase in diesel prices. In the example above, which is designed to be reflective of a perfectly competitive market, any cost decreases that result from lower prices of gasoline-ethanol blends are offset by cost increases resulting from higher diesel fuel prices. The per gallon pricing changes for diesel

fuel are high relative to the pricing changes in E10 and low relative to the pricing changes in E85 primarily due to the relative renewable fuel content of these three fuel blends.

While not shown in the examples above, increasing D4 RIN price while holding the D6 RIN price constant would be expected to result in a slight increase in blended gasoline prices and a decrease in diesel prices. This is a result of the structure of the RFS program. Both gasoline and diesel blendstocks are subject to the same renewable volume obligations, and therefore the same costs associated with acquiring the necessary RINs. As shown in Table 1, this cost is \$0.01 per gallon under the low D6 RIN price scenario and \$0.06 per gallon under the high D6 RIN price scenario. In the scenarios presented above, the high D6 RIN prices can be used to reduce the net purchase price of fuels that generate D6 RINs, which in the majority of cases is corn ethanol. Gasoline-ethanol blends, such as E10 and E85, benefit from the lower net ethanol costs enabled by the higher D6 RIN prices, while diesel and biodiesel blends do not benefit as ethanol cannot be added to these fuels. The reverse scenario would also be true. If D4 RIN prices increased while D6 RIN prices were relatively unchanged the RIN cost for producing petroleum-based gasoline and diesel blendstocks would increase by the same amount. This would be expected to decrease the price of biodiesel blends (as the D4 RIN price reduced the net price of biodiesel) and cause slight increases in the price of gasoline-ethanol blends (which cannot be blended with biodiesel and therefore experience only a RIN cost). The magnitude of this impact, however, would likely be smaller as the D4 RVO is significantly lower than the D6 RVO.

Finally, we note that the price for unblended gasoline and diesel fuel increases in both the high and low RIN price scenarios as compared to a scenario where there are no RIN prices (no RFS). For E10, the most common fuel type sold for use in gasoline vehicles, this cost increase is offset by the effective cost reduction in the price of ethanol, resulting in little or no net change to the price of E10. For diesel-biodiesel fuel blends, however, this is not the case. The lowest price diesel fuel across the three scenarios is for unblended diesel in the no RIN price case. While it is true that in low and high RIN cases biodiesel blends are the same price as, or cheaper than unblended diesel fuel all of these products are more expensive than unblended diesel in the scenario where there is no RIN price.

Observing RIN Price Impacts in the Marketplace

After considering these simplified examples of how increasing RIN prices might impact the price of blended fuel to retailers, EPA examined available price information to determine if the expected price impacts (higher costs for petroleum blendstocks and lower net costs for renewable fuels) could be observed in the data. Due to the many independent factors that impact the cost of transportation fuels, this is not a straight-forward exercise. For example, it is not enough simply to observe the retail price of transportation fuel as the RIN prices fluctuate. If changes in RIN prices corresponded with changes in the price of crude oil (the primary cost of producing gasoline blendstocks), simply observing the relationship between RIN prices and retail fuel prices may give the false impression that increasing RIN prices have a direct impact on the retail pricing of blended fuels. Conversely, decreasing crude oil prices might mask the impact that changing RIN prices have on the price of gasoline blendstocks at the wholesale level or the retail price of blended fuels.

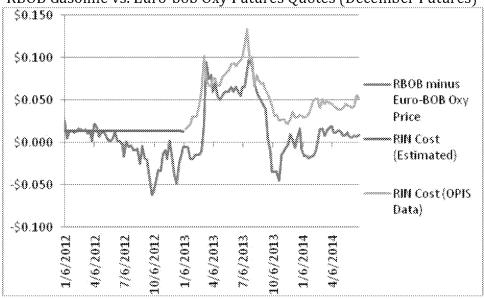
If the market is reacting to changes in RIN prices in the way that the scenarios presented in the previous section suggest, there are two places we expect we would be able to observe the impacts of the changing RIN prices in the market. The first is in the wholesale pricing of similar types of fuel with and without a RIN obligation. The scenarios presented above suggest that if RIN prices increase, obligated parties will respond by increasing the price they charge for petroleum based fuels to recover the cost of purchasing RINs to satisfy the RVO associated with the sale of these fuels. We would not, however, expect to see an increase in the price of similar fuels that are not subject to a RIN obligation. If we observed a sustained price delta between similar types of fuels with and without a RIN obligation, and if this price delta was approximately equal to the RIN cost associated with producing a gallon of petroleum based transportation fuel, it would provide support for our understanding that obligated parties are able to increase the cost of their petroleum blendstocks in order to recover the cost of their RIN obligations.

In the current market there exist several pairs of similar types of fuels wherein one of the pair carries a RIN obligation while the other does not. This allows us to examine the impact of RIN prices on the wholesale price of petroleum fuels. One such pair of fuels consists of gasoline produced for the domestic market (which is subject to an RVO) and gasoline sold for export to the European market (which carries no RIN obligation). Two other pairs are diesel based: diesel fuel is very similar to jet fuel and heating oil sold in the United States, but diesel fuel produced or imported into the U.S. has a RIN obligation while heating oil and jet fuel do not. EPA examined available pricing data for these three pairs of fuels (gasoline sold in the domestic v. foreign markets, diesel v. jet fuel, and diesel v. heating oil). Figure 13 shows the future quotes for RBOB Gasoline vs. Euro-bob Oxy for the December futures²⁷ (the price difference between gasoline grades sold for the United States and European markets) and the RIN obligation cost for gasoline produced or imported into the United States. Figures 14 and 15 show the price differentials between diesel and heating oil and diesel and jet fuel and the RIN obligation costs associated with diesel fuel. The correlation between the price differences of these similar fuels and the RIN obligation costs suggests that obligated parties were generally able to increase the price they charge for the RIN obligated petroleum products they sell for use as transportation fuel in the US to help recover their compliance costs under the RFS program.²⁸

²⁷ Futures prices are for December of the current year, i.e. December 2012 throughout 2012, December 2013 throughout 2013, and December 2014 throughout 2014

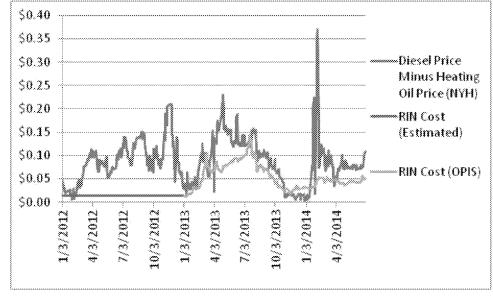
²⁸ Or alternatively, that the market price adjusted to reflect the RIN cost just as it adjusts to reflect changes in crude oil prices and other costs

Figure 13 RBOB Gasoline vs. Euro-bob Oxy Futures Quotes (December Futures)



RIN Prices from OPISEthanol and Biodiesel Information Services RBOB Gasoline vs. Euro-bob Oxy Futurer prices from CME Group

Figure 14
ULSD Price Minus Heating Oil Price (New York Harbor) and Per Gallon RIN Cost



\$0.20 \$0.15 \$0.10 Diesel Price Minus Jet Fuel \$0.05 Price (GC) RIN Cost \$0.00 (Estimated) -\$0.05RIN Cost -\$0.10 (OPIS) -\$0.15 0/3/2013 1/3/2012 0/3/2012 1/3/2013 1/3/2013 1/3/2014 4/3/2014

Figure 15
ULSD Price Minus Jet Fuel Price (Gulf Coast) and Per Gallon RIN Cost

The second area EPA examined to corroborate the results of our example scenarios was the pricing of ethanol, unblended gasoline, and blended fuels (such as E10 or E85) at the wholesale level. Examining this data should indicate whether or not the value of the RIN, which can be separated by the fuel blender when the ethanol is blended to produce a transportation fuel, is reflected in the wholesale price of the blended fuels. If the wholesale price for blended fuels, such as E10 and E85, is equal to or slightly greater than the volume weighted average price of neat ethanol (E100) and clear gasoline (E0) it would indicate that the RIN value is not reflected in the wholesale price of the blended fuels.²⁹ In this scenario, the fuel blender would retain any value associated with the separation and sale of the RIN. If, however, the price for the blended fuels was lower than the volume weighted average of neat ethanol and clear gasoline, it would indicate that the RIN value was at least partially reflected in the price of the blended fuels at the wholesale level.

The fuel blender can only profitably sell a blended fuel for less than the component costs of that fuel if they are realizing value elsewhere. Fuel blenders are able to separate and sell a RIN every time they blend a gallon of renewable fuel, and the RIN value can be used to discount the price of the blended fuel and offer it at a competitive price. Alternatively, the fuel blenders may attempt to retain some or all of the RIN value, especially in less competitive markets. As in the case where we examined the price delta between similar fuels with and without RIN obligations, if the difference between the blended fuel price and the volume weighted average price of neat ethanol and clear gasoline was approximately

²⁹ This is true when RIN prices are relatively high. When D6 RIN prices are only a few cents any blended fuel discount due to the sale of the RIN may be masked by a mark-up of the fuel price at the fuel blender

equal to the RIN value for each of these fuels, this would provide support for the argument that the RIN value is the basis for this difference.

For this analysis we used terminal pricing information from Des Moines, Iowa. We chose to use Des Moines for two reasons. First, unlike many terminals in other states, clear gasoline (E0) is readily available in Iowa at the wholesale level. Knowing the price of clear gasoline allows us to see RIN price impacts on petroleum blendstocks before they are blended with ethanol. Second, Iowa contains a relatively high number of ethanol plants that currently market E85 fuel blends, making it more likely to represent a competitive marketplace for E85. This increase in the competition in the E85 wholesale market increases the likelihood that the RIN value will be reflected in the price of E85 at the wholesale level (see Figure 6, where E85 sales in Iowa increased when RIN prices were high). In other markets, where blenders of E85 face less competition, they may be able to retain more of the RIN value for these higher level ethanol blends rather than reflecting them in the wholesale pricing of these blends.³⁰ Figure 16 shows the pricing of neat ethanol (E100), clear gasoline (E0), and E10 at the Des Moines terminal, as well as the average price for E85 available at the terminal and direct from ethanol production facilities.³¹ Figure 17 compares the difference between the reported price of E10 and the calculated price using a volume weighted average of the component fuels (E100 and E0)32 to the RIN value associated with E10.33 Figure 18 compares the difference between the reported price of E85 and the calculated prices using a volume weighted average of the component fuels (E100 and E0)³⁴ to the RIN value associated with E85.35

³⁰ Over time, however, we would expect markets that are currently relatively uncompetitive to see increased competition and a decreasing opportunity to withhold RIN value from fuel costomers

³¹ Prices for E0, E10, and E100 are Des Moines rack average prices, provided to EPA by Iowa RFA. Price for E85 is the average of all prices listed on the Iowa RFA Wholesale E85 Price Listing website (http://www.iowarfa.org/E85PastPriceProgram.php)

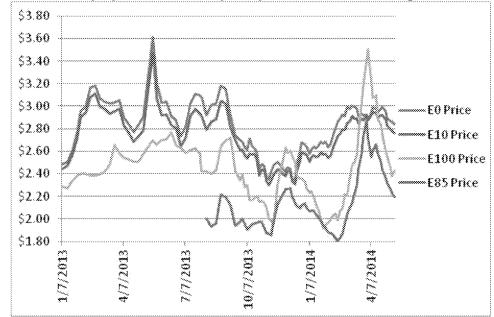
 $^{^{32}}$ Component E10 price = 0.9 * E0 price + 0.1 * E100 price

 $^{^{33}}$ E10 RIN value = 0.1 * D6 RIN price (RIN price information from OPIS Ethanol and Biodiesel Information Service

³⁴ Component E85 price = [1 – Ethanol Content] * E0 price + [Ethanol Content] * E100 price; Ethanol content is calculated based on the weekly average of all E85 offerings reported by Iowa RFA

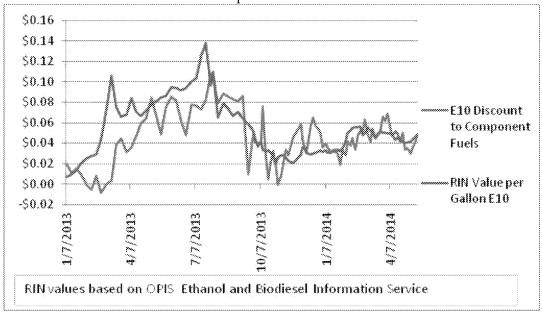
³⁵ E85 RIN value = [Ethanol content of E85] * D6 RIN price (Ethanol content is calculated based on the weekly average of all E85 offerings reported by Iowa RFA; RIN price information from OPIS Ethanol and Biodiesel Information Service

 $Figure\ 16 \\ Clear\ Gasoline\ (E0),\ Neat\ Ethanol\ (E100),\ E10,\ and\ E85\ Pricing\ at\ Des\ Moines$



Fuel Prices from Iowa RFA (E85 Prices only available after August 8, 2014)

Figure 17 E10 Discount to Component Fuels vs. E10 RIN Value



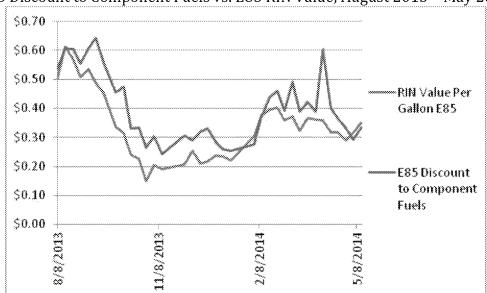


Figure 18 E85 Discount to Component Fuels vs. E85 RIN Value; August 2013 – May 2014

In reviewing the available data, it appears that, as predicted by scenarios in the previous section, the blended fuel prices at the wholesale level generally reflect the changing RIN prices. To state this another way, when determining the price at which to offer blended fuels, the data suggests the fuel blenders are taking into account the value received in the sale of the RIN. This further supports EPA's argument that, if all else remains equal, rising RIN prices may impact the relative pricing of fuel blends containing differing amounts of renewable fuel, but should not result in overall increases to blended fuel prices. We expect that these dynamics will hold when there are generally competitive markets for blended fuels at the wholesale and retail level. This is currently the case for much of the United States for E10 blends, however in most of the United States there is limited competition for E85 at both the wholesale and retail level. In their efforts to maximize profit and pay off their infrastructure investment, E85 wholesalers and retailers who face less competition may choose to withhold some or all or the RIN value if they believe that any increased sales volumes that result from lower priced E85 will be insufficient to overcome the lower per gallon profit margin. These high per-gallon profit margins may over time result in new parties entering the E85 wholesale or retail marketplace, and ultimately greater competition and lower E85 fuel prices for customers.³⁶

While EPA has examined the available data in the marketplace to answer these two questions (Are obligated parties increasing the price of their RIN obligated fuels to recover RIN costs? And are fuel wholesalers reflecting the price of the RIN in their blended fuels?) we have not conducted a comprehensive analysis to address the question of whether or not a causal relationship between RIN prices and retail gasoline prices could be observed. EPA is aware, however, of others who have directly explored this issue, including an analysis

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released by the Renewable Fuels Association conducted by Informa Economics³⁷ and Scott Irwin and Darrel Good of FarmDoc Daily,³⁸ and concluded that RIN prices in 2013 did not cause higher gasoline retail prices.

RIN Price Impacts on Merchant and Integrated Refiners

After RIN prices surged in 2013, several parties argued that high RIN prices put merchant refiners (refiners that do not blend the petroleum blendstocks they produced with renewable fuels) at a competitive disadvantage relative to integrated refiners (refiners who do own fuel blending operations). EPA maintains that this conclusion is based on a flawed analysis of the RIN and transportation fuel markets. Specifically, this argument rests on the assumption that parties who blended renewable fuels with petroleum-based fuels to produce transportation fuel were able to separate RINs from renewable fuel and obtain them at a lower cost, while merchant refiners were forced to buy RINs at a higher market price. Those who raised this concern argued that while this dynamic existed even when RIN prices were low, the high RIN prices in 2013, specifically the high D6 RIN prices, put them at a significant competitive disadvantage.

The misunderstanding at the heart of this flawed conclusion concerns the manner in which merchant refiners acquire RINs, which may differ from the method generally used by integrated refiners. Because merchant refiners do not own fuel blending infrastructure, they generally purchase RINs from fuel blenders who do not have RIN obligations, or other parties who have RINs in excess of their obligations. For these merchant refiners there is a direct and obvious cost of purchasing RINs to satisfy their obligations. Integrated refiners generally obtain RINs by purchasing renewable fuels with attached RINs. As a result, integrated refiners are not paying a separate price for the RINs they acquire, but rather simultaneously purchasing both the renewable fuel and the associated RINs. At the same time, the increased value merchant refiners receive for their petroleum fuel is hidden in the market pricing of the fuels. Several merchant refiners have claimed that they cannot increase the price of their petroleum products, as the price they receive is determined by market listings such as NYMEX. However, even if true, the higher NYMEX price for gasoline sold in the United States relative to the price of gasoline in foreign markets shown in Figure 13 suggests that the NYMEX prices reflect the RIN cost incurred by refiners who sell petroleum products into the U.S. market. While these merchant refiners may simply be receiving prices for their products based on market listings, the data we have reviewed

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³⁷ "Analysis of Whether Higher Prices of Renewable Fuel Standard RINs Affected Gasoline Prices in 2013." Informa Economics. January 2014. In examining the available information, Informa Economics concluded that RIN prices did not have a causal relationship with gasoline prices. Other factors, notably the refiner crude oil composite acquisition cost, were found to have a causal relationship with gasoline prices in 2013. While this paper does not explore the mechanics of the RIN and transportation fuels market, and therefore cannot be used to verify EPA's understanding of the RIN market dynamics, it nevertheless supports our conclusion that high RIN prices did not cause higher gasoline prices in 2013.

³⁸ Irain, Scott, and Darrel Good. "High Gasoline and Ethanol RIN Prices: Is There a Connection?" FarmDoc Daily. Department of Agriculture and Consumer Economics, University of Illinois Urbana-Champaign, 27 Mar. 2013. Web. 10 Sept. 2014.

suggests that the market has adjusted to increased D6 RIN prices and they are nevertheless receiving a higher price for their products that generally reflects their RIN costs. If this is the case, exempting merchant refiners (or any other obligated party) from their RIN obligation while maintaining RIN obligations for other obligated parties would allow the exempted parties to benefit from higher petroleum prices that reflect RIN costs while incurring no RIN costs themselves. This would allow the exempted parties to benefit from increased profit margins relative to other obligated parties as a direct result of the RFS program.

The data EPA has analyzed also indicates that parties that blended renewable fuels were not able to retain the full RIN value. Rather, the price received for a RIN was effectively used to subsidize the price of the renewable from which it was separated, and the price of blended fuels generally reflected this lower renewable fuel price. As discussed in the preceding section and shown in Figures 17 and 18 above, the data EPA has reviewed for Iowa shows that the price of blended fuels at the wholesale level in 2013 was generally less than the weighted average prices of the component fuels. This difference was related to the RIN value associated with the renewable fuel content in these blended fuels. This suggests that fuel blenders who purchased renewable fuels with attached RINs, whether independent or owned and operated by integrated refiners, were selling the renewable fuels for significantly less than the purchase price after the renewable fuels had been blended to produce transportation fuel and the RINs had been separated. Whether the integrated refiners attribute the cost associated with selling the renewable fuels for less than the price they paid to purchase these fuels to their renewable fuel acquisition operations, blending operations, or refining operations, they are subject to a cost for acquiring RINs just like the merchant refiners as long as they are selling renewable fuels at a price lower than the purchase price. If the integrated refiners were to attempt to recover the full purchase price of the renewable fuels in the price of the blended fuel they would likely not be competitive with the independent fuel blenders as the available data suggests blended fuel prices generally reflect discounted renewable fuel prices (net the RIN value).

We further believe that the obligated parties were generally able to recover this increase in the cost of meeting their RIN obligations in the price they received for their petroleumbased products in 2013. We do not argue the fact that higher RIN prices lead to greater RIN acquisition costs for some obligated parties. We do believe, however, that these higher costs have a similar impact on all obligated parties. This includes not only merchant and integrated refiners, but also fuel importers who may import only a single product, such as gasoline or diesel fuel, as the primary mechanism for recovering the RIN cost is through the sales price of the petroleum based blendstocks. There are a number of factors that may impact an individual obligated party's RIN costs, including their RIN purchasing strategy (contract v. spot purchases, separated RINs v. RINs attached to renewable fuels), investments in renewable fuel production and blending infrastructure, geographic location, and many others unique to each obligated party's business. While changing RIN prices may result in profit or costs for one obligated party relative to another, these impacts are largely due to individual business decisions rather than the systematic design of the RFS program. In this way the increasing RIN prices are similar to an increase in the price of crude oil. A rise in the price of crude oil has a significant impact on a refiners cost to produce gasoline

blendstocks, but it will likely not impact their competitiveness, as all refiners are similarly impacted. The impacts on individual refiners may have slight variations due to crude oil purchase contracts or crude supply options, but these differences are indicative of market positions taken by individual refineries rather than a systematic competitive disadvantage.³⁹

In the preceding section we examined available data on the price obligated parties received for similar fuel types with and without RIN obligations. In demonstrating that there was a difference in the prices for these fuels, this data, shown in Figures 13 and 16, suggests that obligated parties are generally able to recover the cost of meeting their RIN obligations in the price of their petroleum blendstocks. If this were not the case, we would expect that merchant refiners would have an incentive to export the gasoline and diesel fuel they produce or to increase production of heating oil or jet fuel, as these fuels do not incur a RIN obligation. If a significant volume of fuel was exported to foreign markets this would create a shortage of supply in the U.S., and prices in the U.S. would rise. These higher domestic prices would provide a price signal to increase domestic production, increase fuel imports, or reduce exports to meet the demand, despite this fuel being subject to an RVO.

Finally, claims that high RIN prices put merchant refiners at a competitive disadvantage relative to integrated refiners ignore the compliance flexibility built into the RIN system. Obligated parties, including independent refiners, may acquire RINs by purchasing renewable fuel with attached RINs and retaining the RINs after selling or blending the renewable fuel, by purchasing separated RINs on the RIN spot market, or through contract arrangements. A merchant refiner's status does not mandate that the refiner purchase only separated RINs. Rather, all obligated parties can choose how and when to acquire RINs to comply with the RFS program. To the extent that merchant refiners choose—for economic or other reasons—to limit themselves to purchasing RINs on the market, that choice is their own, and not one required by EPA's rule. If merchant refiners believe that owning and operating blending operations, or purchasing renewable fuels, separating and retiring the RINs, and reselling the renewable fuel without RINs would present a significant financial or strategic advantage, they may, and generally would, enter the marketplace in this capacity.

Conclusion

In this document we have examined the RIN, renewable fuels, and transportation fuels marketplace. We have explored the question of the cause of elevated D6 RIN prices observed in 2013 and shown that the E10 blendwall was a significant factor in these rising RIN prices. Due to the complexity of the RIN market, we cannot precisely predict the future

³⁹ There are significant similarities between the RIN markets and how refiners make their crude oil purchasing decisions. Integrated refiners may process their own crude or procure it from the open market, while independent refiners purchase all of their crude oil. Refiners, both integrated and independent, are differently situated to process or option different crudes. They have differing business strategies for making these decisions that may impact their relative profitability.

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price of D6 RINs. We would not, however, expect the D6 RIN price to return to the prices experienced from 2010 to 2012 unless the cost of production of ethanol or other renewable fuels fell sufficiently below the cost of gasoline on an energy-equivalent basis.

We also examined data from 2013 which suggested that rising RIN prices did not result in an increase in retail transportation fuel prices in 2013 (considering both gasoline and diesel together), due to the lower net cost of renewable fuels enabled by the high RIN prices. While higher RIN prices increase the cost of RFS compliance for obligated parties purchasing separated RINs, these obligated parties generally recover these costs in the price of their petroleum blendstocks. As a result, a slight decrease in the price of ethanolgasoline blends, which contain a relatively large amount of renewable fuels, is expected to be offset by an increase in the price of diesel fuel, which generally contains lower levels of renewable fuel. This does not necessarily mean that there is no cost to increasing the volume of renewable fuels required to be blended into the transportation fuel pool. If renewable fuels cost more on an energy-equivalent basis than the petroleum fuels they displace, as they did in 2013, there is a cost to using these renewable fuels. The higher the required volume of these fuels, the higher this cost will be. As a result, blending increasing volumes of renewable fuels likely increased the total cost of transportation fuel in the United States in 2013, relative to a scenario where there was no mandate for renewable fuels.

Finally we examined how merchant refiners and integrated refiners were impacted by high RIN prices. The available data suggests that while there may be some variation in how high RIN prices impact individual obligated parties due to differing business decisions, RIN acquisition strategies, and many other factors, the structure of the RFS program does not cause a systematic competitive advantage for one type of refiner or the other. The RIN, renewable fuel, and transportation fuel market is complex, and there are limitations to the available data. EPA will continue to monitor market prices and impacts over time in an attempt to better understand the dynamics and watch for signs of market disruption. Based on available data, however, the RIN market seems to be functioning generally as expected; providing an incentive for the continued growth of renewable fuels in the transportation fuel market without causing overall increases to the retail price of transportation fuel.

From: Marnie Satterfield [MSatterfield@carbonleaf.net]

Sent: 4/19/2017 2:11:02 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RE: Speaker @ IECA Meeting - May 2

Thank you!

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Wednesday, April 19, 2017 9:40 AM

To: Marnie Satterfield < MSatterfield@carbonleaf.net>

Subject: RE: Speaker @ IECA Meeting - May 2

Marnie, thank you for the information. My bio is attached.

Look forward to seeing you soon!

Mandy

From: Marnie Satterfield [mailto:MSatterfield@carbonleaf.net]

Sent: Wednesday, April 12, 2017 2:18 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov >

Subject: Speaker @ IECA Meeting - May 2

Good Afternoon Mandy:

Congrats on the new job! Thank you for agreeing to be a speaker at our upcoming IECA biannual meeting on <u>Tuesday</u>, <u>May 2, 2017 from 10:00 AM to 10:40 AM ET</u>, including Q&A, on EPA's agenda for 2017. The meeting will be held at Le Meridien Arlington (1121 19th Street North, Arlington, VA 22209, 703-351-9170, logistics page attached).

Two items of note: 1) Please send me your current bio, and 2) If you will be using a PowerPoint, you can send that to me by <u>COB on Friday, April 28</u>.

Let me know if you have any questions. We look forward to hearing from you!

Best,

Marnie Satterfield

Senior Government Affairs Manager Industrial Energy Consumers of America (IECA) 1776 K Street, NW, Suite 720 Washington, DC 20006 (O) 202-223-1420 (C) 703-350-7859 msatterfield@ieca-us.org www.ieca-us.org

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with \$1.0 trillion in annual sales, over 2,300 facilities nationwide, and with more than 1.6 million employees worldwide. It is an organization created to promote the interests of manufacturing companies through advocacy and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: chemical, plastics, steel, iron ore, aluminum, paper, food processing, fertilizer, insulation, glass, industrial gases, pharmaceutical, building products, automotive, brewing, independent oil refining, and cement.

From: Mark Carr [markc@channeldesigngroup.com]

Sent: 5/4/2017 1:10:02 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: energy direction

Mandy, May I visit you in your office in order to hear your ideas about the energy sector and environmental protections? This is in follow-up to our chance conversation on the Hill a week ago. Much appreciated,

Mark J Carr Channel Design Group 314-616-6957 DC - NOLA - StL

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From: Greenwalt, Sarah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6C13775B8F424E90802669B87B135024-GREENWALT,]

Sent: 5/8/2017 4:55:40 PM

To: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange

Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Peterkoski, Timothy J. (MPC) [tjpeterkoski@marathonpetroleum.com]; Menefee, Jake E. (MPC)

[jakeemenefee@marathonpetroleum.com]; Beeman, Guy M. (MPC) [gmbeeman@marathonpetroleum.com]

Subject: RE: [EXTERNAL] Connection

Looking forward to it!

Sarah A. Greenwalt

Senior Advisor to the Administrator for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency Work: 202-564-1722 | Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

From: Birsic, Michael J. (MPC) [mailto:mjbirsic@marathonpetroleum.com]

Sent: Monday, May 8, 2017 12:08 PM

To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> **Cc:** Peterkoski, Timothy J. (MPC) <tjpeterkoski@marathonpetroleum.com>; Menefee, Jake E. (MPC)

<jakeemenefee@marathonpetroleum.com>; Beeman, Guy M. (MPC) <gmbeeman@marathonpetroleum.com>

Subject: RE: [EXTERNAL] Connection

Sarah,

2pm on Thursday works great. Thank you for the quick response and making time on your calendar to speak with us. Unfortunately, I am going to be unavailable on Thursday afternoon, so I am CC'ing my colleagues Jake Menefee and Guy Beeman who will be accompanying Tim on Thursday.

Please let any of us know if you have any questions or need anything prior to our meeting on Thursday. Thank you again and see you soon.

Mike

From: Greenwalt, Sarah [mailto:greenwalt.sarah@epa.gov]

Sent: Monday, May 08, 2017 11:40 AM

To: Birsic, Michael J. (MPC); Gunasekara, Mandy

Subject: RE: [EXTERNAL] Connection

Thanks, Mandy!

Mike, I can do this Thursday at 2pm if that works for you guys.

Sarah A. Greenwalt

Senior Advisor to the Administrator for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722 | Cell: 202-816-1388

Greenwalt.Sarah@epa.gov

From: Birsic, Michael J. (MPC) [mailto:mjbirsic@marathonpetroleum.com]

Sent: Monday, May 8, 2017 11:01 AM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov >; Greenwalt, Sarah < greenwalt.sarah @epa.gov >

Subject: RE: [EXTERNAL] Connection

Mandy, thanks for the connection. Sarah, nice to meet you (electronically anyway). Tim was planning to be in town on the 11^{th} and wanted to chat ELGs if you are available. I know how busy you all are, so if 11^{th} is too short of notice, happy to work with you on another date in the near future.

Thanks again Mandy and Sarah we are looking forward to working with you.

Mike

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, May 08, 2017 10:55 AM

To: Greenwalt, Sarah **Cc:** Birsic, Michael J. (MPC) **Subject:** [EXTERNAL] Connection

Hi Sarah,

I'm cc'ing Mike Birsic is a good friend who represents Marathon Petroleum Co. He'd like to see about coordinating a meeting with you and Tim Peterkoski, MPC's lead on environmental issues who will be in town on Thursday. Tim would like to touch base on ELGs.

I hope you two can find a time to connect.

Best, Mandy

From: Riddle, Ken [Ken.Riddle@lakelandgov.net]

Sent: 4/21/2017 1:12:49 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Agenda Attachments: removed.txt

https://www.eastfuelconf.com/conference/agenda/2017-agenda/

Here is the agenda link. The reception starts at 5:30 PM and runs until 7:30 PM on Wednesday.

Ken Riddle
Supervisor of Chemical Processes
Lakeland Electric
3030 East Lake Parker Drive
Lakeland, FL 33805
(863)-834-5639 Office
(863)-660-3626 Mobile

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From: McGinnis, Sean [Sean.McGinnis@lakelandgov.net]

Sent: 5/15/2017 2:47:04 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Beckham, Michael [Michael.Beckham@lakelandgov.net]; Bahtic, Nedin [Nedin.Bahtic@lakelandgov.net]; Dunham,

Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=a9444681441e4521ad92ae7d42919223-SDUNHAM]; shapiro@epa.gov;

brenn.barry@epa.gov; Best-Wong, Benita [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=6ee79b3d0fc0429b99f2c05481b0b957-bbestwon]

Subject: Evaluation of Existing Regulations - Lakeland Electric Comment Letter

Attachments: Lakeland Electric Regulatory Reform Comments to EPA.pdf

Hi Mandy,

Lakeland Electric submitted our official comments today to the docket on the regulations.gov website regarding the evaluation of existing regulations. I didn't want our comments to get lost in the shuffle with the already 55,000+ comments, so I am attaching our comment letter. We really appreciate your consideration of our comments. If you have any questions or would like to discuss in further detail, please don't hesitate to call.

Warm regards, Sean

Sean P. McGinnis, CHMM

Environmental Coordinator



501 E. Lemon St. Lakeland, FL 33801 Ph: 863-834-6169 Cell: 863-733-6169 sean.mcginnis@lakelandelectric.com

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May 15, 2017

United States Environmental Protection Agency Office of Policy Regulatory Reform Mail Code 1803A 1200 Pennsylvania Ave NW Washington, DC 20460

Subject: Evaluation of Existing Regulations

Docket ID: EPA-HQ-OA-2017-0190

Dear Sir or Madam:

On behalf of Lakeland Electric, thank you for the opportunity to provide comments regarding the evaluation of existing United States Environmental Protection Agency (EPA) regulations.

Lakeland Electric is a municipally owned utility located in central Florida. Lakeland Electric, established in 1904, is the third largest public power utility in Florida and serves over 125,000 customers. Power is generated at two main power plants, the 870-megawatt McIntosh Power Plant and the 143-megawatt Larsen Power Plant. Lakeland Electric has a diverse fuel mix including coal, natural gas, fuel oil, diesel, and solar. It is this diversity that enables Lakeland Electric to consistently maintain some of the lowest prices for electricity in Florida. Lakeland Electric is committed to providing safe, reliable, competitive, and environmentally responsible energy solutions to enrich our customer's quality of life. Through the evaluation of existing regulations, Lakeland Electric is looking to partner with the EPA to continue striving to meet these goals.

We appreciate the effort the EPA has already made on some of the following comments. However, more work is necessary to give businesses a regulatory certain environment, while maintaining environmental protection. Lakeland Electric respectfully submits the following comments in response:

1. Clean Power Plan (40 CFR 60 Subpart UUUU)

Perhaps the most important regulation that the electric utility industry is facing is the Clean Power Plan. Lakeland Electric applauds the steps that the new EPA Administration has taken to revisit the rule as it contains numerous legal and technical flaws. It is Lakeland Electric's assertion that the benefits of this rule are overstated, costs are understated, assumptions about renewable energy contribution are overly optimistic, while CO2 emission standards and compliance timetables are unrealistic.

501 E. Lemon St. 🏶 Lakeland, Florida 33801

Phone: 863.834.6300 Fax: 863.834.6344

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2. Steam Electric Power Generating Effluent Guidelines (ELG) (40 CFR Part 423)

Indirect dischargers should not be subject to this rule. The EPA has been moving toward distribution of its power to the states. Accordingly, local authorities, through the Publicly Owned Treatment Works (POTW), should have the final authority to regulate all dischargers to their system. Local control authorities are in the best position to understand their local environment and the conditions that effect it. By having the POTW regulate all discharges through their pre-treatment permit, it will ensure that the final discharge to surface waters will meet all permitted water quality conditions. Indirect dischargers have been meeting pre-treatment standards for decades, which in turn allows the POTW's surface water discharges to meet their permitted standards. Therefore, additional regulation is not necessary. Because the standards required by the ELG are so small, the environmental benefit, if any, in the receiving water would be difficult, if not impossible, to measure.

If indirect dischargers must be included in this rule, then the following suggestions should be considered. The EPA should exempt those small generating units under 400 MW from the ELG rule, specifically as it pertains to bottom ash handling and flue gas desulfurization wastewater. The amount of pollutants discharged by these small generating units is very small and is nearly impossible to measure at the plant discharge point. Consequently, the receiving surface water quality will not be measurably improved.

Finally, compliance at individual plant processes, as dictated in the rule, substantially upstream of the final discharge point does not provide any environmental benefit. It only complicates compliance. Regulation of these wastewaters should come at the surface water discharge point and not be influenced by normal operations that may dilute the wastewater.

3. Disposal of Coal Combustion Residuals from Electric Utilities (CCR) (40 CFR Parts 257 and 261)

Groundwater monitoring compliance points at the edge of coal combustion residual stacks as required in the CCR rule do not enhance environmental protection. Rather, this part of the rule is duplicating State issued conditions of certification which require groundwater compliance at the property boundary. The property boundary standard is still protective of those neighboring properties. In fact, many of the property boundary wells are less than 100 feet from the CCR wells.

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Lakeland Electric

Another duplication in the CCR rule is related to the assessment of sinkhole probability. During the design phase of a State permitted coal combustion residual landfill, the carrying capacity of the proposed location is considered. If a professional engineer has signed and sealed a report certifying the design of the landfill and where it would be located, this should also satisfy the CCR provision without additional geotechnical surveys. If a facility is subject to State landfill permitting, then that facility should be exempt from many of the duplicative CCR requirements.

4. NESHAP for Reciprocating Internal Combustion Engines ("RICE Rule") (40 CFR part 63 Subpart ZZZZ)

Compliance with this rule is very costly and provides little environmental benefit. For example, the rule requires that the non-emergency engines be tested every 8,760 hours of operation or every three (3) years, whichever comes first. This essentially means that engines used primarily for peaking power must be tested every three (3) years despite very low operating hours. A more reasonable testing requirement would be one based exclusively on hours of operation. This would not force the units to run and burn a significant amount of fuel solely for the purpose of compliance testing.

Also, the requirement to continuously monitor catalyst inlet temperature and pressure drop is excessive and provides little benefit. These two parameters should be recorded during periodic compliance testing to verify that they are within the allowable ranges during normal operation

Cross State Air Pollution Rule (CSAPR) (40 CFR Part 97)

Florida was regulated under the previous CSAPR and CAIR rules. Modeling performed for the 2008 ozone ambient air standard under the latest transport rule iteration known as "CSAPR Update" barely exempted our state, and primarily because marine chemistry effects (ozone pollution impact in downwind states is lower when air is transported over saltwater marine environments) being factored. Modeling for 2015 and future years should similarly include marine chemistry effects.

6. Startup, Shutdown, and Malfunction (SSM) (40 CFR Part 52)

With the SSM SIP (State Implementation Plan) Call, the EPA requires that emission limits be complied with at all times, including the periods of startup, shutdown, and malfunction. Previously, best practices were considered acceptable in most states, including Florida, but the SSM SIP Call found this approach inadequate, even

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though Florida has had a long history of exceptional ambient air quality. States are supposed to have a significant autonomy in complying with EPA rules through SIPs, but this rule denies Florida's right under the Clean Air Act to design its own rules in addressing any air quality issues.

7. Mercury and Air Toxics (MATS Rule) (40 CFR 63 Subpart UUUUU)

After the MATS rule was remanded by the U.S. Supreme Court to the EPA for failure to reasonably consider the costs, EPA issued a supplemental finding concluding that the rule remained appropriate and necessary. However, this finding relied largely on claimed "co-benefits" of PM2.5 emission reductions, not on the benefit of HAP emission reductions that this rule was designed to address. This is a perfect example of the inappropriate use of co-benefits to justify rulemaking. When determining whether a regulation is appropriate and necessary, EPA should only consider the benefits of emission reductions for the pollutant(s) that this regulation is targeting.

8. New Source Review (NSR) for Stationary Sources of Air Pollution

NSR was designed to address construction of new or modification of existing sources, but alleged NSR violations have been brought up for simple efficiency improvements at power plants. Although an exemption from NSR requirements exists for Routine Maintenance, Repair and Replacement (RMRR) projects, there should be more certainty as to what specific actions would trigger NSR. Electric utilities should be encouraged to undertake energy efficiency projects to be more economically competitive.

9. Clean Water Rule: Definition of "Waters of the United States" (40 CFR 230.3)

We support the Administration's recent determination that the definition of navigable waters be interpreted in a manner consistent with the opinion of Justice Antonin Scalia in Rapanos v. United States, 547 U.S. 715 (2006). By using this interpretation of the rule, regulatory certainty is ensured. In previous years, very broad interpretations of the rule included waters with a significant nexus to navigable waters such as a manmade ditch or an ephemeral wet area. These are certainly not navigable waters as the rule is intended to regulate. By having a defined set of navigable waters, facilities can plan for potential expansion of operations without the worry of an agency holding up a permit based on an insignificant, unconnected ephemeral wet area.

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Lakeland Electric

10. Criteria and Standards for Cooling Water Intake Structures (316(b) rule) (40 CFR Parts 122 and 125)

The main impetus for the 316(b) rule is the protection of fish and aquatic organisms. While the 316(b) rule has several compliance options, one that is not considered is an intake on a body of water without any threatened or endangered species that could be entrained or impinged. If studies have shown that no threatened or endangered species exist in the waterbody being used for cooling, then there is no reason a facility should be subject to this rule. The small amount of impingement or entrainment of healthy populations of fish and aquatic organisms will not have a detrimental effect on their populations.

Additionally, no credit is given to facilities that discharge water into waterbodies. The turbulent discharge of cooling water increases the dissolved oxygen in the receiving waterbody. Low dissolved oxygen in stagnant bodies of water can contribute to fish kills, especially during warm weather when the oxygen carrying capacity of water is reduced.

11. Chemical Data Reporting (CDR) under the Toxic Substances Control Act (40 CFR Part 711)

All manufacturers of chemicals in the United States are required to report under the chemical data reporting rule. This includes facilities that only produce byproducts from the combustion of coal. The EPA is supposed to use the data to help assess the potential human health and environmental effects of these chemicals. This is an important program for chemicals that may impact human health. However, this program also requires the tracking of coal combustion byproducts. Nearly all combustion byproducts have significant value as beneficial ingredients in products such as concrete and soil amendments. The exercise in reporting the manufacturing of byproducts that are used as ingredients in other beneficial processes is burdensome and does not produce any meaningful environmental benefit.

12. General Comments

In many instances, objectives of a rule have been exceeding the cost effective available technology. The rules being enacted have many times been ahead of where achievable technology currently is. The best rules provide flexibility on how to meet a standard rather than being prescriptive. Free market competition to meet reasonable compliance standards will result in greater economic independence, while still maintaining environmental protections.

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The EPA should only use readily available and reproducible scientific data to support the analysis of proposed rules. Additionally, models used to support the change of rules should be scientifically sound and reproducible by any person using that model.

The City of Lakeland, on behalf of its municipal utility Lakeland Electric, looks forward to the opportunity to work with the EPA to protect our environment, while providing a regulatory certain situation in which businesses can thrive. I can be reached at 863-834-6559 or <u>Michael Beckham@lakelandelectric.com</u>. We appreciate the opportunity to comment on this very important EPA initiative.

Kindest Regards,

Michael Beckham

Assistant General Manager

From: Rob Underwood [runderwood@pmaa.org]

Sent: 5/10/2017 1:59:53 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Washington, Valerie [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=9d031c02ce3a416dad0d421ee998d5a3-VWASHING]

Subject: Re: Meeting Request

Okay. Thx

Sent from my iPhone

On May 10, 2017, at 9:58 AM, Gunasekara, Mandy < Gunasekara. Mandy@epa.gov> wrote:

Valerie is out – I'll come down and get you in 2 mins.

From: Rob Underwood [mailto:runderwood@pmaa.org]

Sent: Wednesday, May 10, 2017 9:57 AM

To: Gunasekara, Mandy < <u>Gunasekara.Mandy@epa.gov</u>> **Cc:** Washington, Valerie < <u>Washington.Valerie@epa.gov</u>>

Subject: Re: Meeting Request

Hi Valerie, I'm downstairs.

They just tried the number and it's busy.

Sent from my iPhone

On May 1, 2017, at 9:26 AM, Gunasekara, Mandy < Gunasekara. Mandy@epa.gov> wrote:

Hey Rob,

I'm cc'ing Valerie Washington who can help set up a meeting. Valerie, can you arrange a meeting with Rob and myself for the week of the May 8th?

Thanks, Mandy

From: Rob Underwood [mailto:runderwood@pmaa.org]

Sent: Friday, April 28, 2017 12:25 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov >

Subject: RE: Meeting Request

Hi Mandy,

Would you be available to chat next Tuesday at 1:30?

Thanks,

Rob Underwood

President

Petroleum Marketers Association of America (PMAA)

1901 North Fort Myer Drive, Suite 500

Arlington, VA 22209

Email: <u>runderwood@pmaa.org</u>

Work: 703.351.8000 Cell: 703.470.4566

From: Rob Underwood

Sent: Monday, April 24, 2017 5:52 PM **To:** Gunasekara.mandy@epa.gov

Subject: Meeting Request

Importance: High

Hi Mandy,

I wanted to touch base with you about a rule that was finalized in July 2015 (Underground Storage Tanks). Click <u>here</u> for more information on the rule.

Would you have some time to chat about this tomorrow afternoon or Wednesday afternoon? I would also like to briefly chat about PMAA's position on the RFS.

Thanks and hope all is well!

Best,

Rob Underwood PMAA

Rob Underwood
President
Petroleum Marketers Association of America (PMAA)
1901 North Fort Myer Drive, Suite 500
Arlington, VA 22209
runderwood@pmaa.org
703.351.8000 (Office)
703.470.4566 (Cell)

Message

From: Will Hupman [HupmanW@api.org]

Sent: 4/21/2017 8:10:28 PM

To: Washington, Valerie [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=9d031c02ce3a416dad0d421ee998d5a3-VWASHING]

CC: Patrick Kelly [kellyp@api.org]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: RFS and the 2018 RVOs

Hi Valerie – Below is a list of folks planning to attend the meeting scheduled with Mandy for Tuesday at 11 am. Please let me know if I can provide you with any additional information. Also, would you be our point of contact for the guards at the front desk? Any other info that I'll need to give them upon arrival? Thanks, and hope you have a great weekend. Will

API Meeting Attendees - Tues. 4/26 at 11 am

Mike Brien – BP

Ryan Walker -- BP

Mike Birsic – Marathon Petroleum Guy Beeman – Marathon Petroleum Fred Walas -- Marathon Petroleum

Dave Sander – Chevron

Puneet Verma - Chevron

Bob Anderson – Chevron

Elisabeth Vrahopoulou -- ExxonMobil

Robert Nolan - ExxonMobil

Kristin Whitman - Shell

John Reese -- Shell

Dale Thanjan - P66

Jennifer Draper -- Motiva

William Woebkenberg -- Aramco

Patrick Kelly - API

Bryan Just - API

Erik Baptist - API

Khary Cauthen - API

Prentiss Searles -- API

Frank Macchiarola -- API

Will Hupman - API

Will Hupman

Director - Federal Relations | American Petroleum Institute desk: 202-682-8396 | cell: 202-615-7192 | hupmanw@api.org

From: Will Hupman

Sent: Tuesday, April 18, 2017 12:10 PM

To: Washington, Valerie

Cc: Patrick Kelly

Subject: Re: RFS and the 2018 RVOs

Will do. I suppose that we'll plan to meet at EPA then?? Just want to make sure.

I'll send you a list in the next few days if that's OK. Thanks again, Valerie. Will

Will Hupman
Director – Federal Relations
American Petroleum Institute

desk: 202-682-8396 cell: 202-615-7192 hupmanw@api.org

On Apr 18, 2017, at 12:03 PM, Washington, Valerie < Washington. Valerie@epa.gov > wrote:

Yes,

Can you send me a list of people that will be attending the meeting so I can give it to the guard.

Thanks

From: Will Hupman [mailto:HupmanW@api.org]

Sent: Tuesday, April 18, 2017 9:48 AM

To: Washington, Valerie < Washington. Valerie@epa.gov>

Cc: Patrick Kelly < kellyp@api.org > Subject: Re: RFS and the 2018 RVOs

Thank you, Valerie!

Can we plan on Tuesday (4/25) at 11 am?

Also, would Mandy be available to come to API (1220 L St. NW) to talk with our group? If not, we'd be happy to come to EPA. There would be about 20 folks total.

Thanks again, Will

Will Hupman
Director – Federal Relations
American Petroleum Institute
desk: 202-682-8396

cell: 202-615-7192 hupmanw@api.org

On Apr 18, 2017, at 7:48 AM, Washington, Valerie < Washington. Valerie@epa.gov> wrote:

Good Morning Will,

Mandy calendar for Tuesday April 25 she is available 10am and 11am

Wednesday April 26th is free all afternoon

Thursday April 27th she is free from 10am – 12noon and 3pm to

5pm

From: Will Hupman [mailto:HupmanW@api.org]

Sent: Monday, April 17, 2017 8:40 AM

To: Washington, Valerie < Washington. Valerie@epa.gov>

Cc: Patrick Kelly <kellyp@api.org>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>

Subject: RE: RFS and the 2018 RVOs

Hi Valerie – I hope you had a great weekend. Just checking in on Mandy's availability for next week to meet with our API Fuels Group to discuss the 2018 RVOs for the RFS and the Point of Obligation issue. We're obviously happy to work around her schedule, but to get the ball rolling next Tuesday morning (4/25), Wednesday afternoon (4/26), or Thursday morning (4/27) work best on our end. I look forward to hearing from you. Thank you! Will

Will Hupman

Director - Federal Relations | American Petroleum Institute desk: 202-682-8396 | cell: 202-615-7192 | hupmanw@api.org

From: Will Hupman

Sent: Tuesday, April 11, 2017 2:43 PM

To: 'Washington, Valerie'

Cc: Patrick Kelly

Subject: RE: RFS and the 2018 RVOs

Hi Valerie – I just wanted to circle back on the emails below to see if we could confirm a date, time, and location with Mandy? We'd be delighted to host her here at API (1220 L St. NW) with our Fuels Group on Tuesday morning (4/25), Wednesday afternoon (4/26), or Thursday morning (4/27). We're also happy to come to EPA if that's better. There will be roughly 20 folks total in our group. Thank you for your consideration. Will Hupman

Will Hupman

Director - Federal Relations | American Petroleum Institute desk: 202-682-8396 | cell: 202-615-7192 | hupmanw@api.org

From: Will Hupman

Sent: Friday, April 07, 2017 8:56 AM

To: 'Gunasekara, Mandy'

Cc: Patrick Kelly; Washington, Valerie **Subject:** RE: RFS and the 2018 RVOs

Thank you, Mandy!

Valerie – please let me know what additional information you need on my end. Will

Will Hupman

Director - Federal Relations | American Petroleum Institute desk: 202-682-8396 | cell: 202-615-7192 | hupmanw@api.org

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Friday, April 07, 2017 12:41 AM

To: Will Hupman

Cc: Patrick Kelly; Washington, Valerie **Subject:** RE: RFS and the 2018 RVOs

Hey Will,

I'd be happy to meet with the folks.

Valerie, can you set up a time and place for us to meet?

Thanks,

Mandy

From: Will Hupman [mailto:HupmanW@api.org]

Sent: Thursday, April 6, 2017 12:35 PM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov >

Cc: Patrick Kelly < kellyp@api.org>
Subject: RFS and the 2018 RVOs

Hey Mandy – How's life at EPA so far? You're not busy at all, right?!? Haha. I'm sure it's been a whirlwind. I can only imagine...

I wanted to reach out on the 2018 RVOs for the RFS. We have our group of fuels experts in town in a few weeks, and I wanted to see if you'd be willing to join us at API to discuss potential volume numbers (and our justifications for recommendations)? Also, how those volumes may relate to the Point of Obligation issue. Would you potentially have any availability on Tuesday morning (4/25), Wednesday afternoon (4/26), or Thursday morning (4/27) to chat with us? We'll obviously work around your schedule if there's a better time during those days. And, if it's more convenient for us to come to you at EPA, we're happy to do that as well. The group should be roughly 20 folks total.

Please let me know if I can provide anything else on this in the interim. Appreciate your consideration, and hope to see you soon! Will

Will Hupman

Director -- Federal Relations | American Petroleum Institute desk; 202-682-8396 | cell: 202-615-7192 | hupmanw@api.org

From: Bill Becker [bbecker@4cleanair.org]

Sent: 5/2/2017 1:21:13 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

CC: Dunham, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=a9444681441e4521ad92ae7d42919223-SDUNHAM]

Subject: Re: Conflict

Do you want to try another time--we might be able to re-jigger a bit.

On 5/2/17 9:13 AM, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov> wrote:

>Hi Bill,
>I apologize for the late notice but I've been pulled into a meeting with the Administrator that conflicts with the time I am currently scheduled to speak. As such, I will not be able to make the business meeting this evening. I apologize for any inconvenience.
> Best,
>Mandy
> Sent from my iPhone

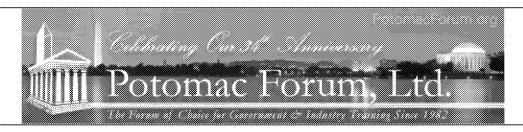
From: Presidents Executive Order on Reorganizting Gov [Training@ReorganizingGov.org]

Sent: 4/20/2017 1:35:12 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Just Announced: Executive Council to Present Latest Direction for Gov Reorganization and EO



Just Announced: The Office of the Executive Council To Participate in the Workshop:

In addition to an already robust program, we've added a roundtable discussion with participants from the Office of Executive Councils, which provides dedicated support to Federal interagency management councils and is playing a pivotal role in implementing the **Executive Order and** related guidance. During this aspect of the program, the Councils will be sharing what they've learned about how agency CXOs are interpreting the Executive Order and corresponding guidance: what their main concerns are; and how they're mobilizing to respond in the coming

Please Review, Register and
Forward to Associates to Attend this
Important Mission Critical Training
to Jumpstart Your Response to the
March 13th Presidents Executive
Order

The President's Executive Order
- Comprehensive Plan to Reorganize
the

Executive Branch Training Workshop for Government

What you need to know to comply with and position your Agency to meet the intent and requirements of the March 13th Executive Order

Date: Thursday, April 27, 2017

TICK, TICK, TICK - The Clock is Ticking

- Jump Start Your Efforts by Learning from Experienced Leaders From April 20th to New June 30th Reporting Date:
- Agency Have 72 Calendar Days to Submit their High Level Draft to OMB (June 30th)
- Agencies Have 51 Workdays to Submit their High Level Draft to OMB (June 30th)

Final Plans are Due to OMB in September

months.

This is a can't miss event!

The Executive Council Includes representatives from:

- Chief Acquisition Officers Council (CAOC)
- Chief Financial Officers Council (CFOC)
- Chief Information Officers Council (CIOC)
- Performance Improvement Council (PIC)
- President's
 Management
 Council (PMC) and
 President's
 Management
 Advisory Board
 (PMAB)

2017

Learn from proven leaders who are now part of the Administration's Reorganization and have extensive experience in government reorganization (including Executive Council, GAO Director and Previous OMB Appointees who have experience in Government Reorganizations)

- Government Employees Only
- No Press Permitted to Attend

High Level Draft Due by June 30th and Reorganization Plan due to OMB in September - Learn from Experts to Help you prepare the Plan!

> --- THIS WORKSHOP SHOULD BE CONSIDERED MISSION CRITICAL TRAINING ---

- This Workshop will help you reorganize to continue Mission Critical Functions in the most efficient manner.
- Attend This Potomac Forum Workshop and you will "Jump-start" your reorganization process and save time.

Please Review and Forward to
Your Government Executives, Managers and Staff
Who Play a Part in Complying with the President's Executive Order and
Improving the Efficiency, Effectiveness, and Accountability their
Department, Agency, Office, Division, Branch, or Program

Potomac Forum Training Workshop

The President's Executive Order:
Comprehensive Plan to Reorganize the
Executive Branch
Training Workshop for Government
What you need to know to comply with and position your Agency to

meet the intent and requirements of the March 13th Executive Order

Date: Thursday, April 27, 2017

Sponsored by:

Potomac Forum, Ltd.
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www.PotomacForum.org (703) 683-1613 info@PotomacForum.org

Location of Workshop:
Willard InterContinental Hotel
Washington, D.C.

Potomac Forum Training Workshops are 100% Educational and NOT Sales or Marketing Events

Workshop for Government Employees Only
Press and Industry is Not Permitted to Encourage
Candid Discussion in our Learning Environment

Confirmed Speakers

Keynote:

Chris Mihm Managing Director, Strategic Issues Government Accountability Office (GAO)

Robert Shea, CGFM, PMP
Principal
Grant Thornton
Former OMB Associate Director for Management

David Haun
Former OMB Deputy Associate Director

Joey Longley
Former Executive Director

Texas State Sunset Commission

Just Announced:

Key Executive Panel from

The Office of Executive Councils

General Services Administration (GSA)

Additional Government Speakers are being approved for participation by their Agencies.

Overview:

On March 13th, President Trump issued an Executive Order that foreshadowed an effort to reduce overlap and duplication among the government's programs and agencies. President Trump's recent Executive Order requires federal agencies to develop and submit to OMB within 180 days a plan to reorganize agency functions to improve the "efficiency, effectiveness, and accountability" of executive branch agencies. The Director of OMB will then submit to the President a comprehensive proposed plan to reorganize the entire executive branch. Proposed reorganizations can include the elimination and/or consolidation of federal agencies and programs.

In addition, federal agencies need to:

- Determine whether functions are most appropriate for the federal government, or if they could be done better or more appropriately performed by State or local government, or by the private sector.
- Identify any program or administrative redundancies that could be eliminated or consolidated.
- Provide an assessment of costs relative to the benefits.
- Provide an estimate of costs to sunset or consolidate agencies/programs.

Join us for a series of presentations and discussions that will provide important background for agencies to consider when complying with the EO. The agenda will include historical perspective of past attempts at reorganization, private sector practices to help meet the EO's requirements, and panel discussions on related topics.

What You Will Learn:

This day-long event will offer executives valuable insights into the history, future, methodology for responding and practical aspects of government reorganization, and will include:

- A history of reorganization of the Federal government
- Key requirements of the Executive Order (EO)
- OMB's expectations for agency responses to the EO

- A methodology for responding to the EO
- Panel discussions with government and private sector executives on the requirements and ramifications of the EO and how to address them
- Experience in the States with sun setting organizations
- A retrospective on government reorganization

Why You Should Attend:

Each Executive Agency must submit a proposed plan to the Director of OMB to reorganize their agency to improve the efficiency, effectiveness, and accountability of their agency.

This workshop will help agencies to better understand the Executive Order and to "jumpstart" efforts to implement and comply within 180 days of its March 13th issuance.

Who Should Attend:

All government executives, managers and staff who play a part in reorganizing to improve the efficiency, effectiveness, and accountability their Department, Agency, Office, Division, Branch, or Program can learn from this "government only" Training Workshop.

Government leaders responsible for responding to or reviewing the response to the President's Executive Order.

Appointees and Career Government Only - Press and Contractors are NOT invited to Attend to permit candid discussion in a 100% educational environment

CEUs Awarded Upon Workshop Completion
Workshop for Government Employees ONLY
Press is NOT Invited to Register or Attend

OMB Director Mulvaney said during a press briefing April 11. "... The executive branch of government has never been rebuilt. It has grown organically over the course of the last 240 years. The President of the United State has asked all of us in the executive branch to start from scratch. A literal blank piece of paper, and say, 'If you were going to rebuild the executive branch, what would it look like?"

Director Mulvany included in his briefing that June 30, OMB will meet with agencies to review their high-level draft of their agency reform plans. In July, OMB will meet with CFO Act agencies and a limited number of others to provide feedback and identify actions that could be taken immediately.

"OMB/Agency Reform Plan Meetings. By June 30, 2017, agencies will provide OMB:

a. A high-level draft of their Agency Reform Plan that includes the Areas the agency is developing for their reforms;"

Specific details are contained in the April 12, 2017 OMB Memo OMB M-17-22:

www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-22.pdf

Final reform plans are due to OMB by September as part of the 2019 budget proposal

Mulvaney said the goal of this two-year effort will be to make the government "dramatically more accountable, more efficient and more effective."

Learn techniques and lessons learned from GAO, IGs and previous Administration Appointees responsible for management at this Potomac Forum Workshop.

"Send-A-Team" Registration Fees

This Training is for Government Only No Press to Promote Candid Discussion

Registration and Information:

www.potomacforum.org

Call: (703) 683-1613 Info@PotomacForum.org

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This email was sent by: Potomac Forum, Ltd. 400 North Washington Street , Alexandria , Virginia, 22314 , USA

Message

From: David M. (Max) Williamson [maxwilliamson@williamsonlawpolicy.com]

Sent: 5/4/2017 7:01:56 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Biogenic meeting

Mandy, it was a pleasure meeting with you on behalf of the Corn Refiners and Biogenic CO2 Coalition, and I look forward to continuing the discussion.

In the meantime, for another client I have an issue relating to destruction of ozone-depleting refrigerants and RCRA that I would like to brief you on, and is there someone in the Administrator's office looking at OLEM that I should talk to about?

Thanks much,

David M. (Max) Williamson | Williamson Law + Policy, PLLC 1800 K Street NW, Suite 714 | Washington, D.C. 20006 | (202) 256-6155



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From: Nextgov [hello@e.nextgov.com]

Sent: 4/18/2017 1:00:26 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Here Are the People Likely to Make Up Trump's Office of American Innovation

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Government technology news unfolds quickly. Stay in the know.

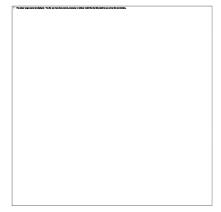
Dear Amanda,

As an individual who works in government technology, we'd like to tell you more about our public sector technology publication, <u>Nextgov</u>. Nextgov is the leading federal technology website, and a meeting place for government and industry managers to read the latest news and discussions and share insights on deploying IT successfully to achieve agency missions.

Below is a sampling of the different ways you can stay connected with <u>Nextgov</u>. Whether it's <u>emerging tech</u>, <u>cybersecurity</u> or updates on <u>federal CIO initiatives</u>, *Nextgov* has you covered on what's happening in the technology across the federal government.

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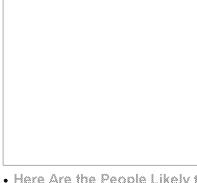
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Тор	Articles	&	Reports	on	Nextgov	right	now
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- Here Are the People Likely to Make Up Trump's Office of American Innovation | The new Office of American Innovation, codified in a presidential memorandum, is described internally as a sort of "SWAT team" of consultants who bring business practices into government, according to The Washington Post.
- <u>The New Administration's Cyber Stance</u> | Although much of Trump's cyber agenda remains murky, we've seen executive order drafts that would order reviews of the nation's cyber vulnerabilities and capabilities, and task agency leaders to modernize aging, unsecure systems. This eBook discusses the state of federal cyber policy and how things could play out under the new Trump presidency.

Government Executive Media Group
600 New Hampshire Ave NW, Washington DC 20037
Have a question? Contact us

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Message

From: Chris Bliley [cbliley@growthenergy.org]

Sent: 5/15/2017 1:31:53 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: E15 map

Attachments: MDEV 17010 E15 PTP Progress 2017-04-28.pdf

Thought this might also be useful. - Chris

Chris Bliley | Vice President, Regulatory Affairs Growth Energy

701 8th St NW Suite 450 Washington DC 20001

OFFICE 202.545.4023 CELL 202.579.7418

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PROGRESS REPORT

E15 Rapidly Moving Into the Marketplace

Today, there are **803 retail locations in 29 states** selling E15 usually between 3-10 cents below regular gasoline.

The vast majority of these locations are selling E15 along with E85 at blender pumps and making both available at nearly every dispensing location.

PARTNERSHIPS. Of the 803 E15 locations, 556 are partnered in the Biofuels Infrastructure Partnership (BIP) program with many more high volume retailers on the way.

MOVERS. Major retailers selling or committed to selling E15 include: Sheetz, Thorntons, Kum & Go, RaceTrac, Casey's, QuikTrip, Kwik Trip, Minnoco, Murphy USA, Cenex, Protec Fuels, Family Express and MAPCO.



LOCATION. These retailers are not exclusively in the rural Midwest, many of these retailers are in major metropolitan areas: Houston, Chicago, Dallas, San Antonio, Charlotte, Atlanta, Louisville.

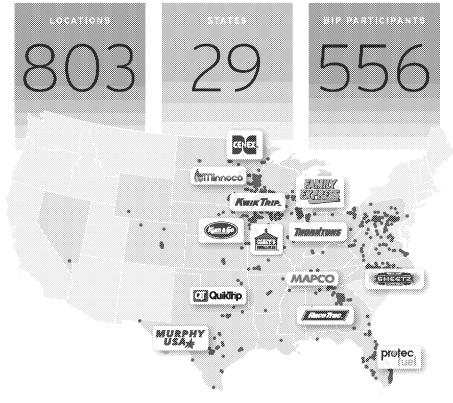
wolume. The average convenience store sells 1 million gallons of gasoline per year on average; while the bulk of the retailers involved in the Biofuels Infrastructure Partnership (BIP) program and industry-sponsored Prime the Pump program sell 2.8 million gallons per year on average — nearly 3 times as much volume as the traditional retailer.

BLEND. The retailer partners are seeing an average ethanol blend rate that easily exceeds 10 percent. These retailers have easily pushed beyond the so-called 10 percent blend wall.















GetEthanol.com

Message

From: Columbus, R. Timothy [tcolumbus@steptoe.com]

Sent: 5/1/2017 5:06:47 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: FW: Thanks

Dear Samantha and Mandy,

Thank you again for your time and courtesy on Friday. We really appreciated your personal attention to this matter. If either I or the buys from QT can help you—market information, whatever, please do not hesitate to call. We may be pains, but we are a good source of honest and reliable information. Thanks Again!

All the best

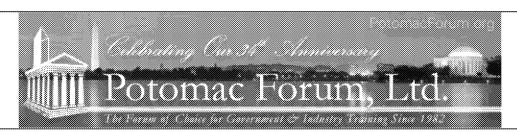
From: Agile in Government Training Workshop [training@AgileTraining.PotomacForum.org]

Sent: 5/4/2017 6:07:36 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: [SPAM] Next Tuesday (After Budget Approved) Agile Development in Gov-Real World Experiences



Government Speakers:

Keynote
William (Bill) Pratt
Director, IT Standards
Directorate for
Management
Office of the CIO
DHS
(Author of the
Widely Acclaimed
DHS AGILE Guidebook
Used by DHS and Many
Other Government
Agencies)

Jonathan Mostowski

US Digital Service, The White House and Pentagon

Robert (Bob) Maslyn Integrated Award Environment (IAE) GSA

Tia Norman
Agile Program Manager
Enterprise Business
Management Office
(EBMO)
Office of the Chief
Information Officer

DHS

Agile Development in Government Training Workshop VIII:

Agile Real World Experiences
How will the transition affect our
agency and my role?
A practical training workshop for
government.

What Executives, Managers and Staff Need to Know

A "How to" Workshop Discussing Best Practices and Lessons Learned New Speaker Announced:
Daniel Levenson
Digital Service Contacting
Adviser
Centers for Medicare &
Medicaid Services (CMS)

Agile Development in Government Training Workshop VIII:

Agile Real World Experiences
How will the transition affect our agency and my role?
A practical training workshop for government.

What Executives, Managers and Staff Need to Know
A "How to" Workshop Discussing Best Practices and Lessons Learned

Tuesday, May 9, 2017 Willard InterContinental Hotel Washington, D.C.

Link to Potomac Forum Website: www.PotomacForum.org

Government & Industry Invited to Attend

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Previous Agile Workshops Rated As Excellent By Government & Industry Students

Government Speakers:

Keynote

William (Bill) Pratt

Director, IT Standards

Directorate for Management

Office of the CIO

DHS

(Author of the Widely Acclaimed DHS AGILE Guidebook Used by DHS and Many Other Government Agencies)

Robert (Bob) Maslyn Integrated Award Environment (IAE) GSA

Tie Newser

Tia Norman
Agile Program Manager
Enterprise Business Management Office (EBMO)

Office of the Chief Information Officer DHS

Jonathan Mostowski US Digital Service, The White House and Pentagon

00 00 100 NC NC 100 00 NC NC 100

New Speaker Announced:

Daniel Levenson
Digital Service Contacting Adviser
Centers for Medicare & Medicaid Services (CMS)

Agile Development in Government Training Workshop VIII: Agile Real World Experiences - How Will the Transition Affect Our Agency and My Role? is designed to provide attendees with practical suggestions to address the kinds of challenges to prepare for based on their own experiences with Agile transition approaches that have worked for them. The afternoon panel will also share their insights on lessons learned based on their real-world experiences as they navigated through Agile transformation within their agencies.

Overview of the Workshop:

Agile software development and delivery is gaining much more staying power in a growing number of Federal agencies than anyone expected even a few years ago. It really appears that it's here to stay for the long run. As agencies move forward in their adoption of the kind of business agility we have seen in the private sector there are still concerns about the effect that such changes will have in the agency's quality controls and risk mitigation as well as the changes in individual roles for program and project managers, contracting officers, acquisition professionals, and others.

Lean Thinking concepts and DevOps principles have led to faster cycle times and increased efficiencies in delivery. However, many agencies are still trying to get a handle on the acquisition and contracting challenges unique to Federal procurement of these Agile digital services. Then there's the question of the government's role in the oversight of Agile delivery. How will the Product Owner successfully ensure that the government's business needs are really being met through the development cycle? What insight into Agile delivery approaches will the Contract Officer and the Contract Officer's Representative need, in order to best manage the entire engagement process with their vendors? This workshop will provide answers to many of these key concerns.

What You Will Learn:

- What near-term changes at the agency level should we be prepared for?
- How will my role and responsibilities change, and how can I best prepare myself?
- How can we ensure that our contracting for Agile Digital Services is not in conflict with the FAR?
- What are some innovative contracting initiatives that are already working for government?
- We've already started down the path of Agile adoption. What are some of the commercial best practices that we could adopt in our government agency?
- What should we know about selecting and interacting with Agile partners from industry?
- What kind of training should my government staff be looking at to best man

Why You Should Attend:

As more and more government agencies move to adopt Lean and Agile practices, there must be assurance that they are keeping within the regulatory boundaries unique to the Federal government. Many agencies are already doing this very successfully. This workshop will show you how they are navigating these challenges.

There are agencies that are eliminating costly mistakes and downtime by successfully adopting Lean and Agile practices. Come and hear their experiences and lessons learned.

Agile practices not only take technical expertise, but require deep cultural change. Hear from experts and daily practitioners about the importance of managing these cultural challenges and how they are successfully driving cultural change based on their real world experiences.

Who Should Attend:

- CIOs, CTOs, Federal IT experts
- Contracting officers Contracting and Acquisition professionals who are or will soon be supporting Agile adoption at their Agencies
- Acquisition professionals

- Agencies new to adopting Agile projects
- Agencies that have already started to adopt Agile practices who want to move to the next level of agility
 Development and Operations teams facing ongoing challenges to deployment
- Program and project managers
- Agile teams facing ongoing challenges to acquisition
- Chief Financial Officers and Staff
- Contracting and Acquisition professionals who are or will soon be supporting Agile adoption at their agencies
- Project and program managers who want to better understand their role in an Agile environment
- Inspector Generals and Staff
- Industry Executives, Managers and Staff who support the government

Workshop for Government and Industry Partners Press is NOT Permitted to Permit Candid Discussion

CEUs and CLUs Credits Awarded for Attendance

Team "Learn Together" Reduced Registration Fee

Student Evaluation Comments from Previous Potomac Forum Agile in Government Training Workshops

I was extremely pleased and will consider Potomac Forum for future raining needs
Lead Contact Specialist
Independent Agency

This workshop was extremely beneficial. I knew very little about the Agile method prior to this workshop and now feel like I can talk about Agile effectively

Investigator

DOJ Agency

The overall workshop was excellent. I have a pretty good understanding of Agile and feel that I'm ready to start a small Agile project IT Systems Division Chief DOJ Agency

The workshop as excellent and very informative. Excellent training session
Branch Chief
Federal Agency

Timely topics, engaging & knowledgeable speakers, good flow, well organized

Business Process Improvement Specialist Business Process Improvement Specialist Independent Agency

Educational, informative, enjoyable! Exactly what I wanted Excellent speakers
Sr Project Manager
Large Government Contractor

Informative and educational. Good examples of implementation and/or risks.

Panel Discussion very beneficial Sr Projects Officer Government Agency

It was an excellent gathering with experts and we got to benefit from their experience in real projects
IT Specialist
Independent Agency

Future Potomac Forum Training Workshops

- 1. Transforming Government with Big Data Training Workshop
 Understanding the Government Big Data and Artificial Intelligence
 Initiatives: What You Need to Know to Do Your Job An Unbiased
 Perspective
 Tuesday, May 23, 2017
 - ...
- 2. Enterprise Risk Management (ERM) in Government Training Workshop II OMB Circular A-123: Beyond Compliance

What federal executive, managers, and front line practitioners need to know to incorporate the updated OMB Circular A-123 requirements that define management's responsibility for internal control with an emphasis on integrating enterprise risk management (ERM) in FY 2017 and beyond Thursday, May 25, 2017

00 DE 100

3. Cyber Security Training: Integration of NIST Risk
Management with Cybersecurity Framework Workshop
Workshop for New Staff and Experienced Practitioners addressing Risk

Management Issues within their Agencies and to improve their cybersecurity posture Coming In June

1 101 00

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Future Potomac Forum Training Workshops

1. The President's Executive Order: Comprehensive Plan to Reorganize the Executive Branch

Training Workshop for Government

What you need to know to comply with and position your agency to meet the intent and requirements of the executive order

Thursday, April 27, 2017

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2. Cyber Security Training: Integration of NIST Risk Management with Cybersecurity Framework Workshop

Workshop for New Staff and Experienced Practitioners addressing Risk Management Issues within their Agencies and to improve their cybersecurity posture

Tuesday, May 2, 2017

-

3. Agile Development in Government Training Workshop VIII: Agile Real World Experiences

How will the transition affect our agency and my role? A practical training workshop for government.

Tuesday, May 9, 2017

4. Transforming Government with Big Data Training Workshop Understanding the Government Big Data and Artificial Intelligence Initiatives: What You Need to Know to Do Your Job - An Unbiased Perspective
Tuesday, May 23, 2017

All Workshops at the Willard InterContinental Hotel Washington, D.C.

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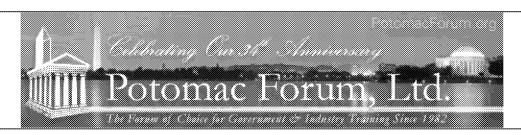
From: Gov Reorganizaton Training Workshop [Workshop@GovernmentReorganization.potomacForum.org]

Sent: 4/13/2017 5:44:46 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: If Your Agency is Working on Compling with the President's EO - Attend this Workshop



New Guidance From
OMB Due Out This
Week - Most Exec
Agencies Budgets to
Be Reduced Programs Cut and Staff
Reduced. - Learn How
to Implement
Reductions on April
27th -

- --- THIS WORKSHOP SHOULD BE CONSIDERED MISSION CRITICAL TRAINING ---
- This Workshop will help you reorganize to continue Mission Critical Functions in the most efficient manner.
- Attend This Potomac Forum Workshop and you will "Jump-start" your reorganization process and save time.
- Learn from proven leaders who have extensive experience in government reorganization
- Government Employees Only

Please Review, Register and
Forward to Associates to Attend this
Important Mission Critical Training
to Jumpstart Your Response to the
March 13th Presidents Executive
Order

The President's Executive Order
- Comprehensive Plan to Reorganize
the

Executive Branch Training Workshop for Government

What you need to know to comply with and position your Agency to meet the intent and requirements of the March 13th Executive Order

Date: Thursday, April 27, 2017

TICK, TICK, TICK - The Clock is Ticking

- Jump Start Your Efforts by Learning from Experienced Leaders From April 10th
- Agency Have 149 Calendar Days to Submit their Reorganization to OMB
- Agencies Have 103 Workdays to Submit their Reorganization to OMB
- Agencies Have 21 Weekends to Submit their Reorganization to OMB (Many Agencies leaders will be working on weekends to complete their work)

- No Press Permitted to Attend

Workshop on Complying with President Trump's March 13th Executive
Order on
Reorganizing the Federal Government

Please Review and Forward to
Your Government Executives, Managers and Staff
Who Play a Part in Complying with the President's Executive Order and
Improving the Efficiency, Effectiveness, and Accountability their
Department, Agency, Office, Division, Branch, or Program

Potomac Forum Training Workshop

The President's Executive Order:
Comprehensive Plan to Reorganize the
Executive Branch
Training Workshop for Government

What you need to know to comply with and position your Agency to meet the intent and requirements of the March 13th Executive Order

Date: Thursday, April 27, 2017

Sponsored by:

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www.PotomacForum.org (703) 683-1613 info@PotomacForum.org

Location of Workshop:
Willard InterContinental Hotel
Washington, D.C.

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Workshop for Government Employees Only
Press and Industry is Not Permitted to Encourage
Candid Discussion in our Learning Environment

Confirmed Speakers

Keynote:

Chris Mihm Managing Director, Strategic Issues Government Accountability Office (GAO)

Robert Shea, CGFM, PMP
Principal
Grant Thornton
Former OMB Associate Director for Management

David Haun
Former OMB Deputy Associate Director

Joey Longley
Former Executive Director
Texas State Sunset Commission

Additional Government Speakers are being approved for participation by their Agencies.

We do not list speakers until confirmation.

Potomac Forum is known for its outstanding relevant speakers.

Potomac Forum was requested by government executives to conduct a 100% educational workshop on the President's Executive Order as soon as possible to help government agencies meet the requirements of the March 13th Executive Order

Overview:

On March 13th, President Trump issued an Executive Order that foreshadowed an effort to reduce overlap and duplication among the government's programs and agencies. President Trump's recent Executive Order requires federal agencies to develop and submit to OMB within 180 days a plan to reorganize agency functions to improve the "efficiency, effectiveness, and accountability" of executive branch agencies. The Director of OMB will then submit to the President a comprehensive proposed plan to reorganize the entire executive branch. Proposed reorganizations can include the elimination and/or consolidation of federal agencies and programs.

In addition, federal agencies need to:

• Determine whether functions are most appropriate for the federal government, or if they could be done better or more appropriately performed by State or local government, or by the private sector.

- Identify any program or administrative redundancies that could be eliminated or consolidated.
- Provide an assessment of costs relative to the benefits.
- Provide an estimate of costs to sunset or consolidate agencies/programs.

Join us for a series of presentations and discussions that will provide important background for agencies to consider when complying with the EO. The agenda will include historical perspective of past attempts at reorganization, private sector practices to help meet the EO's requirements, and panel discussions on related topics.

What You Will Learn:

This day-long event will offer executives valuable insights into the history, future, methodology for responding and practical aspects of government reorganization, and will include:

- A history of reorganization of the Federal government
- Key requirements of the Executive Order (EO)
- OMB's expectations for agency responses to the EO
- A methodology for responding to the EO
- Panel discussions with government and private sector executives on the requirements and ramifications of the EO and how to address them
- Experience in the States with sun setting organizations
- A retrospective on government reorganization

Why You Should Attend:

Each Executive Agency must submit a proposed plan to the Director of OMB to reorganize their agency to improve the efficiency, effectiveness, and accountability of their agency.

This workshop will help agencies to better understand the Executive Order and to "jumpstart" efforts to implement and comply within 180 days of its March 13th issuance.

Who Should Attend:

All government executives, managers and staff who play a part in reorganizing to improve the efficiency, effectiveness, and accountability their Department, Agency, Office, Division, Branch, or Program can learn from this "government only" Training Workshop.

Government leaders responsible for responding to or reviewing the response to the President's Executive Order.

Appointees and Career Government Only - Press and Contractors are NOT invited to Attend to permit candid discussion in a 100% educational environment

CEUs Awarded Upon Workshop Completion
Workshop for Government Employees ONLY
Press is NOT Invited to Register or Attend

"Send-A-Team" Registration Fees

This Training is for Government Only No Press to Promote Candid Discussion

Registration and Information:

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Call: (703) 683-1613 Info@PotomacForum.org

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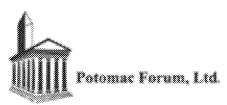
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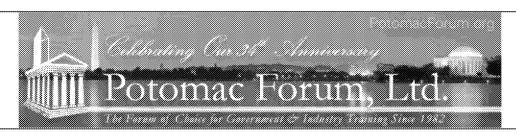
This email was sent by: **Potomac Forum, Ltd.** 400 North Washington Street , Alexandria , Virginia, 22314 , USA From: Using Big Data for Gov Transformation Training Workshop [BigDataForGov@PotomacForumWorkshop.org]

Sent: 4/14/2017 2:34:17 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: Just Announced: Using Big Data to Transform Government



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Early Bird Registration Ends April 15th

Please Review and Forward to Your Government Executives, Managers and Staff Who Manage or Use "Big" Data

Potomac Forum Training Workshop

Transforming Government with Big Data Training Workshop

Understanding the Government Big Data and Artificial Intelligence

Initiatives:

What You Need to Know to Do Your Job - An Unbiased Perspective -

Date: Wednesday, May 23, 2017

Sponsored by:

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www.PotomacForum.org (703) 683-1613 info@PotomacForum.org

Location of Workshop: Willard InterContinental Hotel Washington, D.C.

Potomac Forum Training Workshops are 100% Educational "How To" Training Programs and NOT Sales or Marketing Events

Press is Not Permitted to Encourage Candid Discussion in our Learning Environment

Latest information on Federal Big Data Strategic Plan and the Federal Artificial Intelligence R&D Strategic Plan Initiatives.

The Federal Government is one of the largest producers of data in the world. Big Data is transforming every agency across Government and many have already appointed Federal Chief Data Officers (CDO's) in response to OMB guidance. Federal agencies are using Big Data to transform government mission in scientific discovery, environmental and biomedical research, education, transportation and national security. Melvin Greer, Director Data Science and Analytics details the role of agency CDO's in this transformation, describes the key tools and methods agencies are using to accelerate mission effectiveness and what is required to develop a successful Federal Agency Big Data transformative strategy.

Registration includes authored white papers entitled,
"The Federal Big Data R&D Strategic Plan" and "Driving Innovation via
Cognitive Assisted Internet of Things (IoT)"

Overview:

Transforming Government with Big Data is a one-day, in-depth, educational program for Government Executives, Managers, Program Managers and Staff & Industry Partners.

This event is not a vendor conference, but a training course that provides practical information for the Government and Industry on Big Data, the Federal Governments Big Data and Artificial Intelligence Strategic initiatives and what agency leaders can or should be doing now.

What You Will Learn:

- Understand Big Data issues and opportunities
- Understand Federal Big Data Strategic Plan
- Why Big Data is important to Government transformation
- What is Artificial Intelligence in Government
- Using Machine Learning and Cognitive Computing to Transform the mission
- Big Data Lessons Learned

Why You Should Attend:

- Understand Federal Big Data concepts and familiarize students with the Government Big Data Strategy
- Understand the role of Federal CDO's, why they are important to transforming Government
- Understand the AI R&D Strategic Plan, the impact to agency missions and what how to develop a Federal AI Roadmap

Who Should Attend:

- · CDOs, Data Scientists and Staff
- CIOs and Staff
- IT practitioners
- Program Managers
- IGs and Staff
- Acquisition and Contracting Staff
- Government Employees who want to better understand Big Data
- Industry and Contractors who support the government and need to better understand Big Data at a detailed level
- IT Security Staff
- All government and industry members who need to understand Big Data and how it applies to the government mission.

Potomac Forum is Authorized by ISC² to Award CISSP Credits for Workshop Attendance

CEUs Awarded Upon Workshop Completion

Press is NOT Invited to Register or Attend to Promote Candid Discussion in Our Educational Environment

Early Bird Registration Until April 15th

"Early Bird" Reduced Registration Until April 15th

"Send-A-Team" Registration Fees

This Training is for Government & Industry No Press to Promote Candid Discussion

Registration and Information:

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Future Potomac Forum Training Workshops

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Training Workshop for Government

What you need to know to comply with and position your agency to meet the intent and requirements of the executive order

Thursday, April 27, 2017

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Workshop for New Staff and Experienced Practitioners addressing Risk Management Issues within their Agencies and to improve their

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Tuesday, May 9, 2017

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Tuesday, May 23, 2017

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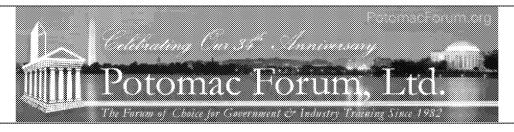
[PotomacForumTrainingPresidentExecutiveOrder@govreorganization.org]

Sent: 4/17/2017 5:58:33 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: New April 12th OMB Memo Requirements Included in Gov Reorganization Workshop



New April 12th Guidance From OMB Director (M-17-22)

"3. OMB/Agency Reform Plan Meetings. By June 30, 2017, agencies will provide OMB:

a. A high-level draft of their Agency Reform Plan that includes the Areas the agency is developing for their reforms; ..."

High Level Draft Due by June 30th and Reorganization Plan due to OMB in September - Learn from Experts to Help you prepare the Plan!

- --- THIS WORKSHOP SHOULD BE CONSIDERED MISSION CRITICAL TRAINING ---
- This Workshop will help you reorganize to continue Mission Critical Functions

Please Review, Register and
Forward to Associates to Attend this
Important Mission Critical Training
to Jumpstart Your Response to the
March 13th Presidents Executive
Order

The President's Executive Order
- Comprehensive Plan to Reorganize
the

Executive Branch Training Workshop for Government

What you need to know to comply with and position your Agency to meet the intent and requirements of the March 13th Executive Order

Date: Thursday, April 27, 2017

TICK, TICK, TICK - The Clock is Ticking

- Jump Start Your Efforts by Learning from Experienced Leaders From April 17th to New June 30th Reporting Date:
- Agency Have 75 Calendar Days to Submit their High Level Draft to OMB (June 30th)
- Agencies Have 54 Workdays to Submit their High Level Draft to OMB (June 30th)

in the most efficient manner.

Attend This Potomac
 Forum Workshop and you
 will "Jump-start" your
 reorganization process and
 save time.

Final Plans are Due to OMB in September 2017

Learn from proven leaders who have extensive experience in government reorganization (including GAO Director and Previous OMB Appointees who have experience in Government Reorganizations)

- Government Employees Only
- No Press Permitted to Attend

Workshop on Complying with President Trump's March 13th Executive
Order on
Reorganizing the Federal Government

Please Review and Forward to
Your Government Executives, Managers and Staff
Who Play a Part in Complying with the President's Executive Order and
Improving the Efficiency, Effectiveness, and Accountability their
Department, Agency, Office, Division, Branch, or Program

Potomac Forum Training Workshop

The President's Executive Order: Comprehensive Plan to Reorganize the Executive Branch Training Workshop for Government

What you need to know to comply with and position your Agency to meet the intent and requirements of the March 13th Executive Order

Date: Thursday, April 27, 2017

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Confirmed Speakers

Keynote:

Chris Mihm Managing Director, Strategic Issues Government Accountability Office (GAO)

Robert Shea, CGFM, PMP
Principal
Grant Thornton
Former OMB Associate Director for Management

David Haun
Former OMB Deputy Associate Director

Joey Longley
Former Executive Director
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Additional Government Speakers are being approved for participation by their Agencies.

We do not list speakers until confirmation.

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Potomac Forum was requested by government executives to conduct a 100% educational workshop on the President's Executive Order as soon as possible to help government agencies meet the requirements of the March 13th Executive Order

Overview:

On March 13th, President Trump issued an Executive Order that foreshadowed an effort to reduce overlap and duplication among the

government's programs and agencies. President Trump's recent Executive Order requires federal agencies to develop and submit to OMB within 180 days a plan to reorganize agency functions to improve the "efficiency, effectiveness, and accountability" of executive branch agencies. The Director of OMB will then submit to the President a comprehensive proposed plan to reorganize the entire executive branch. Proposed reorganizations can include the elimination and/or consolidation of federal agencies and programs.

In addition, federal agencies need to:

- Determine whether functions are most appropriate for the federal government, or if they could be done better or more appropriately performed by State or local government, or by the private sector.
- Identify any program or administrative redundancies that could be eliminated or consolidated.
- Provide an assessment of costs relative to the benefits.
- Provide an estimate of costs to sunset or consolidate agencies/programs.

Join us for a series of presentations and discussions that will provide important background for agencies to consider when complying with the EO. The agenda will include historical perspective of past attempts at reorganization, private sector practices to help meet the EO's requirements, and panel discussions on related topics.

What You Will Learn:

This day-long event will offer executives valuable insights into the history, future, methodology for responding and practical aspects of government reorganization, and will include:

- A history of reorganization of the Federal government
- Key requirements of the Executive Order (EO)
- OMB's expectations for agency responses to the EO
- A methodology for responding to the EO
- Panel discussions with government and private sector executives on the requirements and ramifications of the EO and how to address them
- Experience in the States with sun setting organizations
- A retrospective on government reorganization

Why You Should Attend:

Each Executive Agency must submit a proposed plan to the Director of OMB to reorganize their agency to improve the efficiency, effectiveness, and accountability of their agency.

This workshop will help agencies to better understand the

Executive Order and to "jumpstart" efforts to implement and comply within 180 days of its March 13th issuance.

Who Should Attend:

All government executives, managers and staff who play a part in reorganizing to improve the efficiency, effectiveness, and accountability their Department, Agency, Office, Division, Branch, or Program can learn from this "government only" Training Workshop.

Government leaders responsible for responding to or reviewing the response to the President's Executive Order.

Appointees and Career Government Only - Press and Contractors are NOT invited to Attend to permit candid discussion in a 100% educational environment

CEUs Awarded Upon Workshop Completion
Workshop for Government Employees ONLY
Press is NOT Invited to Register or Attend

OMB Director Mulvaney said during a press briefing April 11. "... The executive branch of government has never been rebuilt. It has grown organically over the course of the last 240 years. The President of the United State has asked all of us in the executive branch to start from scratch. A literal blank piece of paper, and say, 'If you were going to rebuild the executive branch, what would it look like?"

Director Mulvany included in his briefing that June 30, OMB will meet with agencies to review their high-level draft of their agency reform plans. In July, OMB will meet with CFO Act agencies and a limited number of others to provide feedback and identify actions that could be taken immediately.

"OMB/Agency Reform Plan Meetings. By June 30, 2017, agencies will provide OMB:

a. A high-level draft of their Agency Reform Plan that includes the Areas the agency is developing for their reforms;"

Specific details are contained in the April 12, 2017 OMB Memo OMB M-17-22:

www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-22.pdf

Final reform plans are due to OMB by September as part of the 2019 budget proposal

Mulvaney said the goal of this two-year effort will be to make the government "dramatically more accountable, more efficient and more effective."

Learn techniques and lessons learned from GAO, IGs and previous Administration Appointees responsible for management at this Potomac Forum Workshop.

"Send-A-Team" Registration Fees

This Training is for Government Only No Press to Promote Candid Discussion

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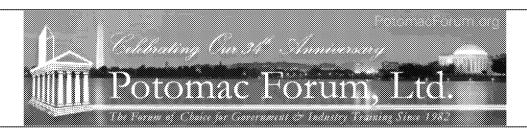
This email was sent by: **Potomac Forum, Ltd.** 400 North Washington Street , Alexandria , Virginia, 22314 , USA From: Presidents Executive Order on Reorganizting Gov [Training@ReorganizingGov.org]

Sent: 4/24/2017 3:33:09 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: This Thursday: Learn Latest Issues and Leading Practices in Gov Reorganization and EO



Join Us: Roundtable
Discussion of How
Agencies are Responding
to the Executive Order

In addition to an already robust program, we've added a roundtable discussion with government executives who provide dedicated support to Federal interagency management councils and are playing a pivotal role in implementing the Executive Order and related guidance.

During this aspect of the program, the Executives will be sharing what they've learned about how agency CXOs are interpreting the Executive Order and corresponding guidance; what their main concerns are; and how they're mobilizing to respond in the coming

Please Review, Register and
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March 13th Presidents Executive
Order

The President's Executive Order
- Comprehensive Plan to Reorganize
the

Executive Branch Training Workshop for Government

What you need to know to comply with and position your Agency to meet the intent and requirements of the March 13th Executive Order

Date: Thursday, April 27, 2017

TICK, TICK, TICK - The Clock is Ticking

- Jump Start Your Efforts by Learning from Experienced Leaders From April 24th to New June 30th Reporting Date:
- Agency Have 68 Calendar Days to Submit their High Level Draft to OMB (June 30th)
- Agencies Have 48 Workdays to Submit their High Level Draft to OMB (June 30th)

Final Plans are Due to OMB in September

months.

This is a can't miss event!

2017

Learn from proven leaders who are part of the Administration's Reorganization and have extensive experience in government reorganization (including Executive Council, GAO Director and Previous OMB Appointees who have experience in Government Reorganizations)

- Government Employees Only
- No Press Permitted to Attend

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Your Government Executives, Managers and Staff
Who Play a Part in Complying with the President's Executive Order and
Improving the Efficiency, Effectiveness, and Accountability their
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Potomac Forum Training Workshop

The President's Executive Order: Comprehensive Plan to Reorganize the Executive Branch Training Workshop for Government

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Robert Shea, CGFM, PMP
Principal
Grant Thornton
Former OMB Associate Director for Management

David Haun Former OMB Deputy Associate Director

Joey Longley
Former Executive Director
Texas State Sunset Commission

Just Announced:
Key Executive Panel from
The Office of Executive Councils

Overview:

On March 13th, President Trump issued an Executive Order that foreshadowed an effort to reduce overlap and duplication among the government's programs and agencies. President Trump's recent Executive Order requires federal agencies to develop and submit to OMB within 180 days a plan to reorganize agency functions to improve the "efficiency, effectiveness, and accountability" of executive branch agencies. The Director of OMB will then submit to the President a comprehensive proposed plan to reorganize the entire executive branch. Proposed

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- OMB's expectations for agency responses to the EO
- A methodology for responding to the EO
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- Experience in the States with sun setting organizations
- A retrospective on government reorganization

Why You Should Attend:

Each Executive Agency must submit a proposed plan to the Director of OMB to reorganize their agency to improve the efficiency, effectiveness, and accountability of their agency.

This workshop will help agencies to better understand the Executive Order and to "jumpstart" efforts to implement and comply within 180 days of its March 13th issuance.

Who Should Attend:

All government executives, managers and staff who play a part in reorganizing to improve the efficiency, effectiveness,

and accountability their Department, Agency, Office, Division, Branch, or Program can learn from this "government only" Training Workshop.

Government leaders responsible for responding to or reviewing the response to the President's Executive Order.

Appointees and Career Government Only - Press and Contractors are NOT invited to Attend to permit candid discussion in a 100% educational environment

CEUs Awarded Upon Workshop Completion
Workshop for Government Employees ONLY
Press is NOT Invited to Register or Attend

OMB Director Mulvaney said during a press briefing April 11. "... The executive branch of government has never been rebuilt. It has grown organically over the course of the last 240 years. The President of the United State has asked all of us in the executive branch to start from scratch. A literal blank piece of paper, and say, 'If you were going to rebuild the executive branch, what would it look like?"

Director Mulvany included in his briefing that June 30, OMB will meet with agencies to review their high-level draft of their agency reform plans. In July, OMB will meet with CFO Act agencies and a limited number of others to provide feedback and identify actions that could be taken immediately.

"OMB/Agency Reform Plan Meetings. By June 30, 2017, agencies will provide OMB:

a. A high-level draft of their Agency Reform Plan that includes the Areas the agency is developing for their reforms;"

Specific details are contained in the April 12, 2017 OMB Memo OMB M-17-22:

www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-22.pdf

Final reform plans are due to OMB by September as part of the 2019 budget proposal

Mulvaney said the goal of this two-year effort will be to make the government "dramatically more accountable, more efficient and more effective."

Learn techniques and lessons learned from GAO, IGs and previous Administration Appointees responsible for management at this Potomac Forum Workshop.

"Send-A-Team" Registration Fees

This Training is for Government Only No Press to Promote Candid Discussion

Registration and Information:

www.potomacforum.org

Call: (703) 683-1613 Info@PotomacForum.org

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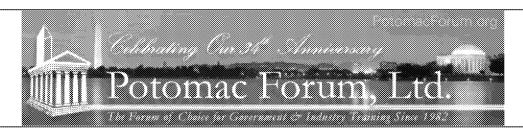
From: President's Exec Order on Gov Reorganization Training [GovReorganization@PotomacForumWorkshop.org]

Sent: 4/10/2017 3:32:55 PM

To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Subject: All Exec Agencies Must Comply: How to Implement the President's Exec Order on Gov Reorganization



New Guidance From
OMB Due Out This
Week - Most Exec
Agencies Budgets to
Be Reduced Programs Cut and Staff
Reduced. - Learn How
to Implement
Reductions on April
27th -

- --- THIS WORKSHOP SHOULD BE CONSIDERED MISSION CRITICAL TRAINING ---
- This Workshop will help you reorganize to continue Mission Critical Functions in the most efficient manner.
- Attend This Potomac Forum Workshop and you will "Jump-start" your reorganization process and save time.
- Learn from proven leaders who have extensive experience in government reorganization
- Government Employees Only

Please Review, Register and
Forward to Associates to Attend this
Important Mission Critical Training
to Jumpstart Your Response to the
March 13th Presidents Executive
Order

The President's Executive Order
- Comprehensive Plan to Reorganize
the

Executive Branch Training Workshop for Government

What you need to know to comply with and position your Agency to meet the intent and requirements of the March 13th Executive Order

Date: Thursday, April 27, 2017

TICK, TICK, TICK - The Clock is Ticking

- Jump Start Your Efforts by Learning from Experienced Leaders From April 10th
- Agency Have 152 Calendar Days to Submit their Reorganization to OMB
- Agencies Have 107 Workdays to Submit their Reorganization to OMB
- Agencies Have 21 Weekends to Submit their Reorganization to OMB (Many Agencies leaders will be working on weekends to complete their work)

- No Press Permitted to Attend

Workshop on Complying with President Trump's March 13th Executive
Order on
Reorganizing the Federal Government

Please Review and Forward to
Your Government Executives, Managers and Staff
Who Play a Part in Complying with the President's Executive Order and
Improving the Efficiency, Effectiveness, and Accountability their
Department, Agency, Office, Division, Branch, or Program

Potomac Forum Training Workshop

The President's Executive Order:
Comprehensive Plan to Reorganize the
Executive Branch
Training Workshop for Government

What you need to know to comply with and position your Agency to meet the intent and requirements of the March 13th Executive Order

Date: Thursday, April 27, 2017

Sponsored by:

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www.PotomacForum.org (703) 683-1613 info@PotomacForum.org

Location of Workshop:
Willard InterContinental Hotel
Washington, D.C.

Potomac Forum Training Workshops are 100% Educational and NOT Sales or Marketing Events

Workshop for Government Employees Only
Press and Industry is Not Permitted to Encourage
Candid Discussion in our Learning Environment

Confirmed Speakers

Keynote:

Chris Mihm Managing Director, Strategic Issues Government Accountability Office (GAO)

Robert Shea, CGFM, PMP
Principal
Grant Thornton
Former OMB Associate Director for Management

David Haun
Former OMB Deputy Associate Director

Joey Longley
Former Executive Director
Texas State Sunset Commission

Additional Government Speakers are being approved for participation by their Agencies.

We do not list speakers until confirmation.

Potomac Forum is known for its outstanding relevant speakers.

Potomac Forum was requested by government executives to conduct a 100% educational workshop on the President's Executive Order as soon as possible to help government agencies meet the requirements of the March 13th Executive Order

Overview:

On March 13th, President Trump issued an Executive Order that foreshadowed an effort to reduce overlap and duplication among the government's programs and agencies. President Trump's recent Executive Order requires federal agencies to develop and submit to OMB within 180 days a plan to reorganize agency functions to improve the "efficiency, effectiveness, and accountability" of executive branch agencies. The Director of OMB will then submit to the President a comprehensive proposed plan to reorganize the entire executive branch. Proposed reorganizations can include the elimination and/or consolidation of federal agencies and programs.

In addition, federal agencies need to:

• Determine whether functions are most appropriate for the federal government, or if they could be done better or more appropriately performed by State or local government, or by the private sector.

- Identify any program or administrative redundancies that could be eliminated or consolidated.
- Provide an assessment of costs relative to the benefits.
- Provide an estimate of costs to sunset or consolidate agencies/programs.

Join us for a series of presentations and discussions that will provide important background for agencies to consider when complying with the EO. The agenda will include historical perspective of past attempts at reorganization, private sector practices to help meet the EO's requirements, and panel discussions on related topics.

What You Will Learn:

This day-long event will offer executives valuable insights into the history, future, methodology for responding and practical aspects of government reorganization, and will include:

- A history of reorganization of the Federal government
- Key requirements of the Executive Order (EO)
- OMB's expectations for agency responses to the EO
- A methodology for responding to the EO
- Panel discussions with government and private sector executives on the requirements and ramifications of the EO and how to address them
- Experience in the States with sun setting organizations
- A retrospective on government reorganization

Why You Should Attend:

Each Executive Agency must submit a proposed plan to the Director of OMB to reorganize their agency to improve the efficiency, effectiveness, and accountability of their agency.

This workshop will help agencies to better understand the Executive Order and to "jumpstart" efforts to implement and comply within 180 days of its March 13th issuance.

Who Should Attend:

All government executives, managers and staff who play a part in reorganizing to improve the efficiency, effectiveness, and accountability their Department, Agency, Office, Division, Branch, or Program can learn from this "government only" Training Workshop.

Government leaders responsible for responding to or reviewing the response to the President's Executive Order.

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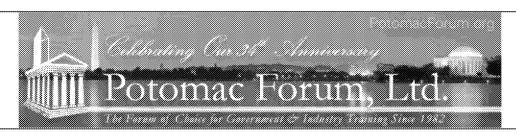
Big Data - Transforming Government Workshop [Training@BigData.PotomacForum.org] From:

4/21/2017 4:36:23 PM Sent:

Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group To:

(FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]

Practical Info: Using Big Data to Transform Government Subject:



E

Please Review and Forward to Your Government Executives, Managers and Staff Who Manage or Use "Big" Data

Potomac Forum Training Workshop

Transforming Government with Big Data Training Workshop Understanding the Government Big Data and Artificial Intelligence Initiatives:

> What You Need to Know to Do Your Job - An Unbiased Perspective -

Date: Wednesday, May 23, 2017

Sponsored by:

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www.PotomacForum.org (703) 683-1613 info@PotomacForum.org

Location of Workshop: Willard InterContinental Hotel Washington, D.C.

Potomac Forum Training Workshops are 100% Educational "How To" Training Programs and NOT Sales or Marketing Events

Press is Not Permitted to Encourage Candid Discussion in our Learning Environment

Latest information on Federal Big Data Strategic Plan and the Federal Artificial Intelligence R&D Strategic Plan Initiatives.

The Federal Government is one of the largest producers of data in the world. Big Data is transforming every agency across Government and many have already appointed Federal Chief Data Officers (CDO's) in response to OMB guidance. Federal agencies are using Big Data to transform government mission in scientific discovery, environmental and biomedical research, education, transportation and national security. Workshop details the role of agency CDO's in this transformation, describes the key tools and methods agencies are using to accelerate mission effectiveness and what is required to develop a successful Federal Agency Big Data transformative strategy.

Registration includes authored white papers entitled,
"The Federal Big Data R&D Strategic Plan" and "Driving Innovation via
Cognitive Assisted Internet of Things (IoT)"

Overview:

Transforming Government with Big Data is a one-day, in-depth, educational program for Government Executives, Managers, Program Managers and Staff & Industry Partners.

This event is not a vendor conference, but a training course that provides practical information for the Government and Industry on Big Data, the Federal Governments Big Data and Artificial Intelligence Strategic initiatives and what agency leaders can or should be doing now. No marketing or sales at 100% educational workshops.

What You Will Learn:

- Understand Big Data issues and opportunities
- Understand Federal Big Data Strategic Plan
- Why Big Data is important to Government transformation
- What is Artificial Intelligence in Government
- Using Machine Learning and Cognitive Computing to Transform the mission
- Big Data Lessons Learned

Why You Should Attend:

- Understand Federal Big Data concepts and familiarize students with the Government Big Data Strategy
- Understand the role of Federal CDO's, why they are important to transforming Government
- Understand the AI R&D Strategic Plan, the impact to agency missions and what how to develop a Federal AI Roadmap

Who Should Attend:

- CDOs, Data Scientists and Staff
- CIOs and Staff
- IT practitioners
- Program Managers
- IGs and Staff
- Acquisition and Contracting Staff
- Government Employees who want to better understand Big Data
- Industry and Contractors who support the government and need to better understand Big Data at a detailed level
- IT Security Staff
- All government and industry members who need to understand Big Data and how it applies to the government mission.

Potomac Forum is Authorized by ISC² to Award CISSP Credits for Workshop Attendance

CEUs Awarded Upon Workshop Completion

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